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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

SAN FRANCISCO, CA

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WHERE: Federal Building and U.S. Courthouse, Conference Room 7209–A, 450 Golden Gate Avenue, San Francisco, CA
RESERVATIONS: Federal Information Center, 1–800–726–4995

SEATTLE, WA

WHEN: July 23, at 1:00 pm
WHERE: Henry M. Jackson Federal Building, North Auditorium, 915 Second Avenue, Seattle, WA
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[CN-91-002]

Amendment to the Cotton Board Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service is amending the Cotton Board Rules and Regulations in order to implement recent amendments to the Cotton Research and Promotion Order.

These amendments to the rules and regulations will establish procedures for calculating, collecting, and remitting assessments on imported cotton and cotton-containing products. A de minimis figure based on the value of imported cotton per line item entry is established to lessen the administrative burden of collecting import assessments while providing for maximum participation of imports of cotton in the assessment provisions. Imported cotton and cotton-containing products containing an amount of cotton which in value is less than the de minimis figure will not be subject to assessment.

Procedures by which refunds of producer assessments are obtained have been removed from the regulations so that the regulations conform to the provisions of the Cotton Research and Promotion Act Amendments of 1990 which eliminated the refund provision.

Exemptions from assessment and procedures importers will follow to obtain reimbursemer t of assessments paid on imported cotton and textile products which are not subject to assessment are also established.

EFFECTIVE DATE: July 31, 1992.

FOR FURTHER INFORMATION CONTACT: Craig Shackelford (202) 720–2259.

SUPPLEMENTARY INFORMATION: This final rule amends the Cotton Board Rules and Regulations in order to implement the amendments to the Cotton Research and Promotion Order which were issued pursuant to the Cotton Research and Promotion Act Amendments of 1990 enacted by Congress under subtitle G of title XIX of the Food, Agriculture, Conservation and Trade Act of 1990 on November 28, 1990. A proposed rule amending the Cotton Research and Promotion Order was published for public comment on April 10, 1991. The proposed amendment to the Order was published on July 9, 1991. The proposed amendment was approved by a majority (60 percent) of importers and producers of cotton voting in a referendum conducted July 17–26, 1991. The amendment to the Order was published on December 10, 1991 (56 FR 64470).

This final rule has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a non-major rule since it does not meet the criteria for a major regulatory action.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 12 of the Act, any person subject to an order may file with the Secretary a petition stating that the order, any provision of the plan, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling, provided a complaint is filed within 20 days from the date of the entry or the ruling.

The Administrator, Agricultural Marketing Service (AMS), has certified that this action would not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

There are an estimated 210,000 producers and 650 collecting handlers who are presently subject to rules and regulations issued pursuant to the Cotton Research and Promotion Order. There are also an estimated 10,000 importers that would become subject to the rules and regulations. The majority of these producers, handlers and importers would be classified as small businesses under the criteria established by the Small Business Administration.

Under this rule, procedures for processing assessment refunds to producers are removed. Therefore, based on 1991 figures, $41,075,853, collected by handlers from producers would not be subject to refunds. At current refund rates of approximately 34 percent, $13,965,790 of the estimated $41,075,853 would be retained by the Research and Promotion program. The economic impact of the elimination of refunds is not expected to be significant. It is expected that assessments from imports would total $6,785,816, including reimbursements, and that the total program will generate an estimated total of $47,861,669 based on the 1991 forecast. Therefore, the economic impact of an assessment on importers is not expected to be significant. The economic impact of the other amendments to the regulations as described in the preamble are also not expected to be significant. Furthermore, the Research and Promotion program is expected to benefit producers, handlers and importers by expanding and maintaining new and existing markets for cotton.

The amended rules and regulations impose recordkeeping and reporting burdens on importers and producers. The recordkeeping burden should average approximately .25 hours per year per person. The reporting burden should be approximately 6,174 hours per year. Therefore, the economic impact of these burdens is not expected to be significant.

Accordingly, the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) of 1980 (44 U.S.C. 3501 *et. seq.*) the information collection and recordkeeping requirements for domestic handlers and producers contained in this subpart have been previously approved by OMB and assigned control number 0581–0093.

Implementation of the provisions of the Cotton Research and Promotion Act Amendments of 1990 require comparable information collection requirements for importers. The information collection and recordkeeping requirements for importers contained in this subpart have been previously approved by OMB and have also been assigned control number 0581–0093.

Based on comparable research and promotion programs, it will require approximately 10 minutes for an importer to complete a reporting form and approximately 10 minutes to complete a reimbursement or exemption application. There will be an estimated 1,000 importers per year subject to these information collection requirements. Importer reporting forms will be filed on a monthly basis only when the requested information is not available from the United States Customs Service. AMS intends to rely to a great extent on the Customs Service for all report information regarding importers. Reimbursement or exemption applications will be filed by importers when necessary. The combined estimated annual burden is 4,080 hours. Importers would be expected to maintain and make available to the Secretary such books and records as necessary to carry out the provisions of the order and regulations. Importers would be required to retain such records for at least two years beyond the marketing year of their applicability.

One respondent commented on the proposed reporting and recordkeeping requirements for importers contained in the proposed rule published in the **Federal Register** on December 17, 1991 (56 FR 65450). The comment expressed concerns that the proposed estimated burden may be incorrect.

It is the view of the agency that the estimate is appropriate. Further, the U.S. Customs Service will serve as the collecting agent for import assessments. Almost all information required under this proposal will be available from records already maintained by importers under the Customs Service requirements. The Department intends to rely to a great extent on records maintained by the Customs Service and records maintained by importers under Customs Service requirements for its administration and enforcement of the provisions of the proposed regulations. We anticipate that importers will be required to provide additional reports and records only on occasions when additional information is needed as evidence of compliance, or in cases when the importer seeks and exemption or reimbursement of assessments.

This final rule is promulgated to implement the Cotton Research and Promotion Act Amendments of 1990 and provisions of the amended Cotton Research and Promotion Order.

The Agricultural Marketing Service issued an invitation to submit comments on the proposed rule in the December 17, 1991 **Federal Register.** Twenty-five respondents, including foreign governments, importer associations, legal counsel representing importers, importers, national and state farm organizations, and cotton producers submitted comments that were received by AMS prior to the January 16, 1992 deadline. In addition, 12 comments were received after the January 16, 1992 deadline. These comments contain no new issues requiring discussion. The agency also received one written request and two telephone requests for an extension of the comment period. Such extension was not granted.

Fifteen respondents expressed general and specific points of support for the proposal. The comments can be generally summarized as urging the adoption of the proposal based on the view that it effectively meets the intent of the legislation by minimizing administrative burden, providing fair and equitable treatment to domestic and imported cotton, and maximizing participation. The provision for calculating assessments on the cotton content of imported products was viewed as resulting in the closest possible equivalency to the assessment levied on domestically produced cotton. The provisions for exempting imports from assessment in the proposal were viewed as meeting the legislative mandate to eliminate potential double assessment of U.S. produced cotton.

Ten respondents provided specific suggestions for modifications to the proposal. The substantive comments are discussed in the following paragraphs together with changes made to the proposal upon review of the comments and the proposed amendment to the Cotton Board Rules and Regulations by the agency. For the reader's convenience, the discussion is organized by the topic of the headings in the proposal. Also, other non-substantive changes have been made to the regulation for the purpose of clarity and accuracy.

Definitions

One respondent suggested that the definition of "Importer" in § 1205.500(o) should be slightly modified to clarify that customs brokers who have no financial interest in the imported cotton will not be required to maintain records for, or file reports with, the Cotton Board.

It was the intention of the agency that the definition of importer in the proposed rule have the same meaning as that in the 1990 Amendments to the Cotton Research and Promotion Act. We interpret this definition to mean that the importer is any person who enters cotton for consumption, or any person who withdraws from warehouse cotton for consumption, in the United States. The person liable for assessments, recordkeeping and reporting would be any person who meets the requirements of this definition.

This view is not inconsistent with regulations of the U.S. Customs Service, the agency that would collect the assessments on imports of cotton. Under that agency's regulations the importer is the person primarily liable for payment of any duties, and may be importer of record or the consignee.

Assessments

Several respondents, including foreign governments expressed concerns that implementing the assessment on imported Cotton would conflict with U.S. international trade obligations because it represents a new trade barrier. One foreign government suggested the assessment may not discriminate against imported cotton products because an equivalent assessment is levied on U.S. produced cotton. However, this respondent stated that the assessment is inconsistent with U.S. intentions to open markets.

Cotton's share of the U.S. fiber market has increased substantially over the past fifteen years from approximately 34 percent to 53 percent. The Cotton Research and Promotion Program under the Act has been in effect during this period. The importation of cotton products into the U.S. market is substantial and increasing. Over the past 15 years, there has been a sharp increase in imports of cotton compared to domestic mill use. In fact, the rate of growth of imported cotton products has substantially exceeded that of domestically produced cotton products. Thus importers have benefitted from the expansion of markets for cotton

products, and have done so to an even greater extent than domestic producers.

The expansion of the legislative authority to assess imported cotton and cotton-containing products, recognizes that all who benefit from U.S. domestic markets for cotton should share in the cost of building and maintaining such markets. Foreign textile manufacturers, importers, and domestic cotton producers all have an interest in maintaining and expanding the market for their products. The agency therefore believes that importers have had and will continue to have the opportunity equal to domestic producers to benefit from the results of this program.

One respondent objected to the imposition of importer assessments prior to the installation of importers on the Cotton Board. The Department is proceeding as expeditiously as possible to obtain importer nominees to the Board. The Department disagrees with the comment that implementation of the new research and promotion program should be postponed until after importer representatives are appointed. Nevertheless, such appointments shall be made as soon as possible.

Two respondents expressed objections to an assessment levied on textile products that contain little cotton. One of the respondents suggested that products composed primarily of fibers other than cotton would not benefit from the program. The other commenter suggested that items with cotton content less than 20% should not be assessed.

In determining which HTS classifications would be assessed under this proposal, the primary objectives were to meet the intent of the Cotton Research and Promotion Act Amendments of 1990 by maximizing participation of cotton imports in the assessment provision of the Act, while at the same time, minimizing the burden of administering those provisions. More than 2,400 HTS textile classifications contain cotton. However, out of this total, approximately 700 classifications account for approximately 97 percent of the annual volume of imported cotton textiles and apparel. The agency determined to propose limiting assessments to this lower number, thereby exempting a large number of low volume HTS classifications. By limiting the assessment to the 700 HTS classifications, the administrative burdens on all those who are involved in the assessment program will be reduced. At the same time, the vast majority of the volume of cotton textiles and apparel imported into the U.S. will be assessed.

Implementing a procedure to forgo collection of assessments on all products that contain less than 20 percent cotton would reduce collections by an unknown amount and create additional burdens for the importer, AMS, and Customs. Importers would have additional determinations to make in calculating assessments. The determination not to assess based on fiber content does not lend itself to computer automation. Consequently, Customs personnel would have to manually verify the determination of the importer. AMS would need additional reports from Customs to monitor the exemption for compliance. It is the view of the agency that exempting entire classifications of products rather than individual products due to fiber content creates a more administratively advantageous situation for all. For this reason, the comment regarding products containing less than 20 percent cotton will not be adopted.

One respondent commented that the proposed regulations improperly use only domestic industry data regarding the likely cotton content of imported cotton-containing products. The respondent further stated that USDA apparently assumed that domestically produced fabrics and foreign produced fabrics are synonymous. The comment concluded by offering that USDA should seek the input of importers and foreign manufacturers to develop conversion factors that more accurately reflect the cotton content of imported products.

The conversion factors set forth in the proposal were published for public comment. The Economic Research Service (ERS) continually reviews these factors and makes changes whenever additional information is available. No comments offering additional information regarding any specific conversion factors were received during the comment period for this proposal. The Department will continue to welcome all information regarding conversion factors with the goal of adding to our knowledge of fiber contents for all cotton products.

The respondent presented a reasonable point that one could expect textile manufacturers in foreign countries to use blends that vary from those in the U.S. It is our experience in cotton research and promotion that manufacturers produce blends that are tailored to the consumer preference of the target market. The conversion factors should than be representative for products of all manufacturers supplying the U.S. market.

A second factor influencing blend levels is the availability of technology that allows a manufacturer to produce a specific blend. Spinning efficiencies for well developed countries using the latest technology, such as the U.S., will be greater than the efficiencies obtained by less developed countries using earlier technologies. Consequently conversion factors for raw cotton fiber equivalents such as those in the assessment table that take into account spinning waste and cutting losses are lower than if based on less efficient manufacturing systems.

One respondent suggested that the supplemental assessment rate of 0.6 percent of the value of the cotton is excessive. The respondent argued that nothing in the legislative history of the authorizing act suggests that the amendments were intended to generate additional funds of the magnitude in this proposal. The respondent recommended the adoption of a supplemental assessment rate of 0.21 percent of the value of the cotton which by the respondent's analysis would generate revenues comparable to revenues generated in 1991.

While we disagree with the thrust of the above comment, AMS is currently in the process of preparing a proposal that would reduce the supplemental assessment rate from 0.6 percent of the value of the cotton to a rate of 0.5 percent. This proposal was initiated by the U.S. cotton industry which strongly supports the reduction and was recommended to the Secretary of Agriculture by the Cotton Board. The 0.1 percent reduction recommended by the Cotton Board would reduce supplemental assessment collections by approximately five million dollars annually. The Board estimates that adequate funding would be available for significant expansion of the program despite the assessment rate reduction. Comments will be solicited concerning the proposed reduction.

The value of imported cotton for the purpose of levying the supplemental assessment on imports of cotton and cotton-containing products was determined to be $1.446 in the proposal. This figure was the average price received by producers for the calendar year 1990. The $1.446 figure has been reduced to $1.384 to reflect the average price received by producers for cotton for the calendar year 1991.

Three respondents commented on the proposed de minimis value of cotton. The de minimis value of cotton is a minimum value of cotton per line item entry below which assessments are not collected. The amendments to the Act provide that the term "cotton" shall not include any entry of imported cotton

having a weight or value less than any de minimis figure as established by regulations. In the final rule implementing procedures for the conduct of referenda in connection with the Cotton Research and Promotion Order, a de minimis value of $220.99 per line item entry was established. This de minimis figure reflects only the value of cotton in each line item entry of imported product shown on the Customs Service entry documentation. Eligibility of importers to vote in the referendum conducted in July 1991, which approved the amended Cotton Research and Promotion Order, was in part determined by whether an importer had entered a value of cotton equal to or greater than the de minimis amount into the U.S. during the representative period.

The agency established the $220.99 per line item entry de minimis value based on its determination that the amount of estimated assessment collected on a value of cotton which was less than $220.99 would not be sufficient to adequately cover the estimated amount that the U.S. Customs Service would charge for collecting the assessment. According to the amendments to the Act, the Customs Service is to be reimbursed for the reasonable cost of collecting the assessment. The Act further states that the de minimis figure should be such as to minimize the burden in administering the import assessment, but still provide for the maximum participation of importers of cotton in the assessment provision. On that basis, the agency viewed the $220.99 de minimis as consistent with the provisions of the Act.

Two respondents suggested that the de minimis figure is too low and that it should be raised substantially. A substantial increase in the de minimis value appears unwarranted. Using $220.99 per line item entry as the minimis value of cotton, the minimum assessment collected would be approximately $2.00, which exceeds the anticipated cost of collecting the assessment and which would satisfy the goal of providing for maximum participation of importers of cotton in the assessment program.

Two examples are provided below to show how the de minimis value might effect the payment of assessment.

Example 1

HTS 6205202065, (Men's Cotton Shirts)

Net weight		235.50	kg.
Conversion factor	x	0.9961	
Cotton content	=	234.58	kg.
Cotton value per kg.	x	$1.384	
Total cotton value.	=	$324.66	

Since the value of the cotton in the line item entry is equal to or greater than $220.99 an assessment would be paid. The multiplication of the net weight times the assessment per kilogram from the table reveals the amount of the assessment.

Net weight		235.50	kg.
Assessment per kg.	x	1.2666	cents
Assessment		$2.98	

Example 2

This example shows an entry for which no Research and Promotion assessment would be paid because the value of the cotton is less than the de minimis value of $220.99.

HTS code, 6205202065, men's cotton shirts

Net weight		137.28	kg.
Conversion factor	x	0.9961	
Cotton Content	=	136.74	kg.
Cotton value per kg.	x	$1.384	
Total cotton value.	=	$189.25	

One respondent suggested that the de minimis figure be based on the amount of fee payable to allow for a one step calculation. This cannot be done because the Act provides that the de minimis amount should represent a weight or value of cotton.

One respondent requested that an example of the assessment calculation be included in the final rule for clarity. An example of the assessment table and an explanation of the assessment formula, including a calculation of the assessment follows:

HTS classification	Conversion factor	Cents/kg
6205202065 (Mens Cotton Shirts)	0.9961	1.2666

The assessment per kilogram (not including the conversion factor) represents the sum of the assessment and the supplemental assessment. An explanation of the assessment formula and how the various figures are obtained is as follows:

One bale is equal to 500 pounds.
One kilogram equals 2.2046 pounds.
One pound equals 0.453597 kilograms.

One dollar per bale assessment converted to kilograms:

A 500 pound bale =
226.8 kg. (500 × .453597)
$1 per bale assessment =
$0.002000 per pound ($1 ÷ 500)
$0.004409 per kg. ($1 ÷ 226.8)

Supplemental assessment of 9/10 of 1 percent of the value of the cotton converted to kilograms:

Average price received for cotton, or average value =
$0.628 per pound
$1.384489 per kg. (0.628 × 2.2046)
9/10 of one percent of the average price in kg. =
$0.008307 per kg. (1.384489 × .006)

Total assessment per kilogram:

$1 per bale equivalent assessment =
$0.004409 per kg.
Supplemental assessment +
$0.008307 per kg.
Total assessment per kg. of cotton, or per kg. of cotton product containing 100 percent cotton =
$0.012716

The total assessment per kilogram in the right hand column of the table would be the product of the conversion factor for the HTS classification and the base assessment per kilogram calculated above. An example would be:
HTS code, 6205202065 (Men's Cotton Shirts)

Conversion factor		0.9961	
Assessment per kg.	×	1.2716	cents
Total assessment.	=	1.2666	cents per kg.

Therefore, referring back to example 1 (men's cotton shirts), and the table, one can readily see how an assessment would be calculated. In example 1, the net weight of the shirts is 235.50 kg. That figure multiplied by the assessment rate per kg. from the table (1.2666 cents) results in an assessment of $2.98.

Two respondents suggest that the proposal should be revised to reduce the total import assessment by the percentage of total imports likely to contain U.S. produced cotton. Another respondent offered a contrasting position and suggested that an across-the-board reduction based on historical percentages of U.S. produced export cotton returning in imported cotton products would clearly violate GATT because products from countries which import no U.S. raw cotton would receive the same assessment reduction as those countries which import large amounts of U.S. cotton. It is the view of the agency that an across-the-board reduction in the assessment rate would not impact all program participants equally and

thus has not been adopted in the final rule.

Upon review of the list of HTS classifications subject to assessment the agency became aware that a number of the classification numbers have been modified in the most recent Harmonized Tariff Schedule. Therefore, the assessment table has been modified to reflect the current HTS classification numbers.

Exemptions and Reimbursements

One respondent commented that the proposed exemption and reimbursement procedure does not ensure that U.S. produced cotton will not be double assessed. The Cotton Research and Promotion Act Amendments of 1990 state that the Secretary shall establish procedures to ensure that the cotton content of imported products is not subject to more than one assessment. It is the agency's view that the exemption and reimbursement procedures in the regulation are consistent with the language of the Act amendments.

Three respondents expressed the view that any imported product subject to assessment which can be shown to contain no cotton should be automatically exempted from assessment at the time of entry. There are a number of HTS classifications listed in the assessment table in which the principal fiber by weight is not cotton. Products imported under these classifications could contain cotton contents of 0 to 50 percent. These HTS classifications were included in the assessment table because of the substantial amount of cotton imported on an annual basis in products classified by these numbers.

This comment has merit and the agency has modified the final rule in two ways to minimize the possibility of assessing products containing no cotton. A new paragraph § 1205.510(b)(7) is added to provide a specific exemption for imported products that are classified by HTS numbers subject to assessment but yet contain no cotton. For such entries the importer need not apply to the Cotton Board in advance for an exemption number. Instead the importer shall enter in the appropriate place on the Customs entry documentation the number "999999999". This number will be used by all importers for each such entry. AMS will monitor the use of this exemption number through Customs generated reports.

The second approach to minimizing the possibility of assessing non cotton-containing products involves the elimination of certain HTS classifications from the assessment table. The agency has reviewed the list of HTS numbers subject to assessment and eliminated a number of HTS classifications where the potential to assess non-cotton containing products exists. The volume of cotton imported and hence the potential amount of assessments were the primary considerations in eliminating HTS classification numbers from the assessment list.

One respondent suggested that products imported under bond and known as "sales samples" should be exempt from the assessment. It has been the intention of the agency to exempt products that are imported and subsequently exported without entering into the commerce of the U.S. A new Section 1205.510(b)(8) is added to specifically exempt from assessment any cotton containing product imported and assigned a HTS classification beginning with "9813" when such HTS classification is entered on the Customs entry documentation.

One respondent suggested that the 90 day validity period for exemption numbers discussed in the proposed rule Board could be a burden to importers who would be required to indicate the 90 day period in which merchandise from a given purchase order will be imported.

Section 1205.510(b)(6)(i) in the final rule provides for a lengthened validity period based on this comment. An importer will be able to obtain an exemption from assessment for cotton and cotton-containing products composed of in part or in whole of U.S. produced cotton or cotton which is other than Upland cotton. Exemptions will specify a given weight and be valid for 120 days from date of issue. The Cotton Board will assign the importer a nine digit number which will be entered on the Customs entry documentation in a location to be determined by the U.S. Customs Service.

One respondent suggested that goods are routinely exported from the United States to a foreign country for the purpose of being repaired or altered. When these goods are returned to the U.S. they are classified under subheadings 9802.00.40 and 9802.00.50 of the HTS schedule in addition to their normal classification. Any entry of such goods that are classified by one of the 700 HTS numbers subject to assessment would attract the assessment even if the assessment had been paid previously. Based on this comment and our concern to eliminate possibilities of double assessment the agency has added a new paragraph § 1205.510(b)(9) which provides an automatic exemption for products classified under 9802.00.40 and 9802.00.50 subheadings.

Four respondents expressed concerns regarding the burden to importers in obtaining exemptions and reimbursements. They stated that the cost to the importer for obtaining exemptions and reimbursements would be greater than the assessments paid. The respondents were concerned over their perceived inability to obtain evidence of the origin of cotton fiber.

The agency is aware of the need to reduce burden to importers as a result of implementation of the cotton research and promotion assessment. Several exemption opportunities are available to importers under this regulation that impose no burden on the importers, the major one being the exemption for "9802" entries. This will eliminate assessment of a substantial number of entries of U.S. produced cotton. Various alternatives for eliminating exemption and reimbursement procedures are discussed in this rule and the proposal. The agency has discussed the need to eliminate the occurrences of assessment of U.S. produced cotton with the public and other government agencies. It is the view of the agency that the procedures for exemptions and reimbursements provided for in this regulation allow for effective administration and minimal burden to persons subject to the regulation.

Several non-substantive, miscellaneous changes have been made in these regulations for the purpose of clarity.

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1205 is amended as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

1. The authority citation for part 1205 continues to read as follows:

Authority: 7 U.S.C. 2101–2118.

2.–3. Section 1205.500 "Terms defined" is amended by adding paragraphs (o), (p), (q), and (r) to read as follows:

Definitions

§ 1205.500 Terms defined.

* * * * *

(o) *Importer* means any person who enters, or withdraws from warehouse, cotton for consumption in the customs territory of the United States and "import" means any such entry.

(p) *Customs Service* means the United States Customs Service of the United States Department of Treasury.

(q) *Cotton* means: (1) All Upland cotton harvested in the United States, and, except as used in section 7(e) of the Act, includes cottonseed of such cotton and the products derived from such cotton and its seed, and

(2) imports of Upland cotton, including the Upland cotton content of the products derived thereof. The term "cotton" shall not, however, include:

(i) Any entry of imported cotton by an importer which has a value or weight less than a de minimis amount established in regulations issued by the Secretary and

(ii) Industrial products as that term is defined by regulation.

(r) *Industrial products* means cotton-containing products which are classified in the Harmonized Tariff Schedule of the United States under classifications other than textile classifications. Certain cotton-containing textile products under textile classifications shall also be considered to be industrial products, and are therefore not included in the table appearing in these regulations as products subject to assessment. Such products include, but are not limited to textile fabrics coated, impregnated, covered, or laminated, with other materials, textile piping and tubing, and belting materials.

General

4. Section 1205.505 "Communication" is revised to read as follows:

§ 1205.505 Communication.

All reports, requests, applications for reimbursements, and communications in connection with the Cotton Research and Promotion Order shall be addressed as follows: Cotton Board, Post Office Box 2121, Memphis, Tennessee, 38101-2121.

Assessments

5. Section 1205.510 "Levy of assessments" is revised to read as follows:

§ 1205.510 Levy of assessments.

(a) *Producer assessments.* An assessment of $1 per bale for cotton research and promotion is hereby levied on each bale of Upland cotton that is produced from cotton harvested and ginned except cotton consumed by any governmental agency from its own production. Such assessment shall be payable and collected only once on each bale.

(1) A supplemental assessment for cotton research and promotion in addition to the $1 per bale assessment provided for in paragraph (a) of this section, is hereby levied on each bale of Upland cotton harvested and ginned except cotton consumed by any governmental agency from its own production. The supplemental assessment rate shall be levied at the rate of six-tenths of one percent of:

(i) The current value of the cotton multiplied by the number of pounds of lint cotton or;

(ii) The current value of the cotton converted to a fixed amount per bale as reflected in the following assessment chart:

ASSESSMENT CHART [1]

Current Value (cents per pound)	Supplemental assessment, dollars per bale
.00 to 9.99	.15
10.00 to 19.99	.45
20.00 to 29.99	.75
30.00 to 39.99	1.05
40.00 to 49.99	1.35
50.00 to 59.99	1.65
60.00 to 69.99	1.95
70.00 to 79.99	2.25
80.00 to 89.99	2.55
90.00 to 99.99	2.85
100.00 to 109.99	3.15
110.00 to 119.99	3.45

[1] Assessment is calculated on 6/10 of 1 percent of the midpoint of each 10¢ increment, based on a 500 lb. bale and converted to a fixed amount per bale.

(2) Each marketing year the collecting handler must select one of the two options for collecting the supplemental assessment as provided in paragraph (a)(1) of this section. The handler shall notify the Cotton Board as to the method selected at the time the handler files the first handler report each marketing year.

(b) *Importer assessment.* An assessment for cotton research and promotion of $1 per bale is hereby levied on each bale of cotton, or the bale equivalent thereof for cotton in cotton-containing products identified in the HTS conversion factor table in paragraph (b)(3) of this section and imported into the United States on or after July 31, 1992. The $1 per bale assessment shall be converted to a fixed amount per kilogram to facilitate the U.S. Customs Service in collecting this assessment.

(1) A supplemental assessment for cotton research and promotion in addition to the $1 per bale assessment provided for in paragraph (b) of this section is hereby levied on each bale of cotton or bale equivalent of cotton in cotton-containing products, identified in this subpart, imported into the United States on or after July 31, 1992. The supplemental assessment shall be levied at the rate of $\frac{6}{10}$ of 1 percent of the historical value of cotton as determined by the Secretary, and expressed in paragraph (b)(2) of this section. The rate of the supplemental assessment on imported cotton will be the same as that levied on cotton produced within the United States. The supplemental assessment will be calculated as a fixed amount per kilogram and added to the $1 per bale or bale equivalent assessment to facilitate the Customs Service in collecting assessments.

(2) The average of monthly average prices received by U.S. farmers will be calculated annually. Such average will be used as the value of imported cotton for the purpose of levying the supplemental assessment on imported cotton and will be expressed in kilograms. The value of imported cotton for the purpose of levying this supplemental assessment for the period January 1, 1992 through December 31, 1992 is $1.384 per kilogram.

(3) The following table contains the Harmonized Tariff Schedule classification numbers and corresponding conversion factors and assessments. The left column of the table indicates the HTS classifications of imported cotton and cotton-containing products subject to assessment. The center column indicates the conversion factor for determining the raw fiber content for each kilogram of the HTS. HTS numbers for raw cotton have no conversion factor in the table. The right column indicates the total assessment per kilogram of the article assessed. Any line item entry of cotton appearing on Customs entry documentation in which the value of the cotton contained therein is less than $220.99 will not be subject to assessments as described in this section.

IMPORT ASSESSMENT TABLE

[Raw cotton fiber]

HTS classification	Conversation factor	Cents/kg.
5201001000	1.0000	1.2716
5201002000	1.0000	1.2716
5201002010	1.0000	1.2716
5201002020	1.0000	1.2716
5201002050	1.0000	1.2716
5204110000	1.1111	1.4129
5204200000	1.1111	1.4129
5205111000	1.1111	1.4129
5205121000	1.1111	1.4129
5205122000	1.1111	1.4129
5205131000	1.1111	1.4129
5201410000	1.1111	1.4129
5205210000	1.1111	1.4129
5205220000	1.1111	1.4129
5205230000	1.1111	1.4129
5205240000	1.1111	1.4129
5205250000	1.1111	1.4129
5205310000	1.1111	1.4129
5205320000	1.1111	1.4129
5205330000	1.1111	1.4129

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversation factor	Cents/kg.
5205340000	1.1111	1.4129
5205410000	1.1111	1.4129
5205440000	1.1111	1.4129
5206120000	0.5556	0.7065
5206130000	.5556	.7065
5206140000	.5556	.7065
5206230000	.5556	.7065
5206240000	.5556	.7065
5206310000	.5556	.7065
5207100000	1.1111	1.4129
5208112020	1.1455	1.4566
5208112040	1.1455	1.4566
5208112090	1.1455	1.4566
5208114020	1.1455	1.4566
5208114060	1.1455	1.4566
5208114090	1.1455	1.4566
5208118090	1.1455	1.4566
5208124020	1.1455	1.4566
5208124040	1.1455	1.4566
5208124090	1.1455	1.4566
5208126020	1.1455	1.4566
5208126040	1.1455	1.4566
5208126060	1.1455	1.4566
5208126090	1.1455	1.4566
5208128020	1.1455	1.4566
5208128090	1.1455	1.4566
5208130000	1.1455	1.4566
5208192020	1.1455	1.4566
5208192090	1.1455	1.4566
5208194020	1.1455	1.4566
5208194090	1.1455	1.4566
5208196090	1.1455	1.4566
5208224040	1.1455	1.4566
5208224090	1.1455	1.4566
5208226020	1.1455	1.4566
5208226060	1.1455	1.4566
5208228020	1.1455	1.4566
5208230000	1.1455	1.4566
5208292020	1.1455	1.4566
5208292090	1.1455	1.4566
5208294090	1.1455	1.4566
5208296090	1.1455	1.4566
5208298020	1.1455	1.4566
5208312000	1.1455	1.4566
5208321000	1.1455	1.4566
5208323020	1.1455	1.4566
5208323040	1.1455	1.4566
5208323090	1.1455	1.4566
5208324020	1.1455	1.4566
5208324040	1.1455	1.4566
5208325020	1.1455	1.4566
5208330000	1.1455	1.4566
5208392020	1.1455	1.4566
5208392090	1.1455	1.4566
5208394090	1.1455	1.4566
5208306090	1.1455	1.4566
5208398020	1.1455	1.4566
5208412000	1.1455	1.4566
5208416000	1.1455	1.4566
5208418000	1.1455	1.4566
5208421000	1.1455	1.4566
5208423000	1.1455	1.4566
5208424000	1.1455	1.4566
5208425000	1.1455	1.4566
5208430000	1.1455	1.4566
5208492000	1.1455	1.4566
5208494020	1.1455	1.4566
5208494090	1.1455	1.4566
5208496010	1.1455	1.4566
5208496090	1.1455	1.4566
5208498090	1.1455	1.4566
5208516060	1.1455	1.4566
5208518090	1.1455	1.4566
5208523020	1.1455	1.4566
5208523040	1.1455	1.4566
5208523090	1.1455	1.4566
5208524020	1.1455	1.4566

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversation factor	Cents/kg.
5208524040	1.1455	1.4566
5208524060	1.1455	1.4566
5208525020	1.1455	1.4566
5208530000	1.1455	1.4566
5208592020	1.1455	1.4566
5208592090	1.1455	1.4566
5208594090	1.1455	1.4566
5208596090	1.1455	1.4566
5209110020	1.1455	1.4566
5209110030	1.1455	1.4566
5209110050	1.1455	1.4566
5209110090	1.1455	1.4566
5209120020	1.1455	1.4566
5209120040	1.1455	1.4566
5209190020	1.1455	1.4566
5209190040	1.1455	1.4566
5209190060	1.1455	1.4566
5209190090	1.1455	1.4566
5209210090	1.1455	1.4566
5209220020	1.1455	1.4566
5209290040	1.1455	1.4566
5209290090	1.1455	1.4566
5209313000	1.1455	1.4566
5209316030	1.1455	1.4566
5209316050	1.1455	1.4566
5209316090	1.1455	1.4566
5209320020	1.1455	1.4566
5209320040	1.1455	1.4566
5209390020	1.1455	1.4566
5209390040	1.1455	1.4566
5209390060	1.1455	1.4566
5209390080	1.1455	1.4566
5209390090	1.1455	1.4566
5209413000	1.1455	1.4566
5209416020	1.1455	1.4566
5209420020	1.0309	1.3109
5209420040	1.0309	1.3109
5209430020	1.1455	1.4566
5209430040	1.1455	1.4566
5209490020	1.1455	1.4566
5209490090	1.1455	1.4566
5209516030	1.1455	1.4566
5209516050	1.1455	1.4566
5209520020	1.1455	1.4566
5209590020	1.1455	1.4566
5209590040	1.1455	1.4566
5209590090	1.1455	1.4566
5210114020	.6873	.8740
5210114040	.6873	.8740
5210114090	.6873	.8740
5210116020	.6873	.8740
5210116040	.6873	.8740
5210116060	.6873	.8740
5210120000	.6873	.8740
5210192090	.6873	.8740
5210214040	.6873	.8740
5210216020	.6873	.8740
5210216060	.6873	.8740
5210314020	.6873	.8740
5210314040	.6873	.8740
5210316020	.6873	.8740
5210318020	.6873	.8740
5210414000	.6873	.8740
5210416000	.6873	.8740
5210418000	.6873	.8740
5210498090	.6873	.8740
5210514040	.6873	.8740
5210516020	.6873	.8740
5210516040	.6873	.8740
5210516060	.6873	.8740
5211120020	.6873	.8740
5211190020	.6873	.8740
5211190060	.6873	.8740
5211210030	.4165	.5296
5211290090	.6873	.8740
5211320020	.6873	.8740
5211390040	.6873	.8740

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversation factor	Cents/kg.
5211390060	.6873	.8740
5211490020	.6873	.8740
5211490090	.6873	.8740
5211590020	.6873	.8740
5212116040	.9164	1.1653
5212146090	.9164	1.1653
5212216090	.9164	1.1653
5212236060	.9164	1.1653
5601101000	1.1455	1.4566
5601210010	1.1455	1.4566
5601210090	1.1455	1.4566
5601220090	1.0413	1.3241
5601300000	1.1455	1.4566
5602109090	.5727	.7282
5602290000	1.1455	1.4566
5602906000	.5260	.6689
5603009030	.3124	.3972
5603009070	.3124	.3972
5603009090	.3124	.3972
5604900000	.5556	.7065
5607100000	.8791	1.1179
5607210000	.8791	1.1179
5607290000	.8791	1.1179
5607301000	.8791	1.1179
5607302000	.8791	1.1179
5607491000	.8081	1.0276
5607902000	.8889	1.1303
5608901000	1.1111	1.4129
5608902000	1.1111	1.4129
5609004000	.5556	.7065
5701102010	.0556	.0707
5701102090	1.1111	1.3139
5701901010	1.0444	1.3281
5701902010	.9333	1.1868
5702109020	1.1000	1.3988
5702312000	.0778	.0989
5702411000	.0722	.0918
5702412000	.0778	.0989
5702421000	.0778	.0989
5702422090	.0778	.0989
5702491010	1.0333	1.3139
5702913000	0.0889	.1130
5702991010	1.1111	1.4129
5702991090	1.1111	1.4129
5703100000	.6313	.8028
5703202010	.0337	.0429
5703900000	.4489	.5708
5705002020	.7071	.8991
5705002030	.0337	.0429
5801220000	1.1455	1.4566
5801230000	1.1455	1.4566
5801250010	1.1455	1.4566
5801250020	1.1455	1.4566
5801260020	1.1455	1.4566
5802110000	1.1455	1.4566
5802190000	1.1455	1.4566
5802300030	.5727	.7282
5804290020	1.1455	1.4566
5806200000	.3534.	.4494
5806310000	1.1455	1.4566
5806400000	.4296	.5463
5808103010	.5727	.7282
5808900010	.5727	.7282
5810100000	1.1455	1.4566
5810910020	1.1455	1.4566
5811002000	1.1455	1.4566
6001210000	.8591	1.0924
6001220000	.2864	.3642
6001910010	.8591	1.0924
6001910020	.8591	1.0924
6001920020	.2864	.3642
6001920030	.2864	.3642
6001920040	.2864	.3642
6002203000	.8681	1.1039
6002206000	.2894	.3680
6002302000	.9996	1.2711
6002420000	.8681	1.1039

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversation factor	Cents/kg.
6002430010	.2894	.3680
6002430080	.2894	.3680
6002920000	1.1574	1.4717
6002930040	.1157	.1471
6002930080	.1157	.1471
6101200010	1.0094	1.2836
6101302010	1.2235	1.5558
6102200010	1.0094	1.2836
6102200020	1.0094	1.2836
6102302010	1.2235	1.5558
6103421020	.8806	1.1198
6103421040	.8806	1.1198
6103421050	.8806	1.1198
6103421070	.8806	1.1198
6103431520	.2516	.3199
6103431540	.2516	.3199
6103431550	.2516	.3199
6104220040	.9002	1.1447
6104220060	.9002	1.1447
6104320000	.9202	1.1708
6104420010	.9002	1.1447
6104420020	.9002	1.1447
6104520010	.9312	1.1841
6104520020	.9312	1.1841
6104622010	.8806	1.1198
6104622015	.8806	1.1198
6104622025	.8806	1.1198
6104622030	.8806	1.1198
6104622060	.8806	1.1198
6104632010	.3774	.4799
6104632025	.3774	.4799
6104632030	.3774	.4799
6104632060	.3774	.4799
6105100010	.9850	1.2525
6105100020	.9850	1.2525
6105100030	.9850	1.2525
6105202010	.3078	.3914
6105202030	.3078	.3914
6106100010	.9850	1.2525
6106100020	.9850	1.2525
6106100030	.9850	1.2525
6106202010	.3078	.3914
6106202030	.3078	.3914
6107110010	1.1322	1.4397
6107110020	1.1322	1.4397
6107120010	.5032	.6399
6107210010	.8806	1.1198
6107220025	.3774	.4799
6107910010	1.2581	1.5998
6107910040	1.2581	1.5998
6108210010	1.2445	1.5825
6108210020	1.2445	1.5825
6108220020	1.1314	1.4387
6108310010	1.1201	1.4243
6108320010	.2489	.3165
6108320015	.2489	.3165
6108320025	.2489	.3165
6108910015	1.2445	1.5825
6108910025	1.2445	1.5825
6108910030	1.2445	1.5825
6108920030	.2489	.3165
6109100005	.9956	1.2660
6109100007	.9956	1.2660
6109100009	.9956	1.2660
6109100012	.9956	1.2660
6109100014	.9956	1.2660
6109100018	.9956	1.2660
6109100023	.9956	1.2660
6109100027	.9956	1.2660
6109100037	.9956	1.2660
6109100040	.9956	1.2660
6109100045	.9956	1.2660
6109100060	.9956	1.2660
6109100065	.9956	1.2660
6109100070	.9956	1.2660
6109901007	.3111	.3956
6109901009	.3111	.3956

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversation factor	Cents/kg.
6109901025	.3111	.3956
6109901049	.3111	.3956
6109901050	.3111	.3956
6109901060	.3111	.3956
6109901065	.3111	.3956
6109901090	.3111	.3956
6110102010	.8631	1.0975
6110102030	.8631	1.0975
6110202005	1.1837	1.5052
6110202010	1.1837	1.5052
6110202015	1.1837	1.5052
6110202020	1.1837	1.5052
6110202025	1.1837	1.5052
6110202030	1.1837	1.5052
6110202035	1.1837	1.5052
6110202040	1.1574	1.4717
6110202045	1.1574	1.4717
6110202065	1.1574	1.4717
6110202075	1.1574	1.4717
6110303010	.1850	.2352
6110303020	.1850	.2352
6110303040	.1850	.2352
6110303050	.1850	.2352
6110303055	.1850	.2352
6110900022	.2630	.3344
6110900024	.2630	.3344
6110900040	.2630	.3344
6110900042	.2630	.3344
6110900090	.2630	.3344
6111201000	1.2581	1.5998
6111202000	1.2581	1.5998
6111203000	1.0064	1.2797
6111205000	1.0064	1.2797
6111206010	1.0064	1.2797
6111206020	1.0064	1.2797
6111206030	1.0064	1.2797
6111206040	1.0064	1.2797
6111304000	.2516	.3199
6111305010	.2516	.3199
6111305015	.2516	.3199
6111305020	.2516	.3199
6111305030	.2516	.3199
6111305040	.2516	.3199
6112110050	.7548	.9598
6112120010	.2516	.3199
6112120030	.2516	.3199
6112120040	.2516	.3199
6112120050	.2516	.3199
6112120060	.2516	.3199
6112390010	1.1322	1.4397
6112410010	.1258	.1600
6112490010	.9435	1.1998
6114200005	.9002	1.1447
6114200010	.9002	1.1447
6114200015	.9002	1.1447
6114200020	1.2860	1.6353
6114200040	.9002	1.1447
6114200052	.9002	1.1447
6114200060	.9002	1.1447
6114301010	.2572	.3271
6114301020	.2572	.3271
6114303030	.2572	.3271
6114303050	.2572	.3271
6115110020	1.0522	1.3380
6115190010	1.0417	1.3246
6115922000	1.0417	1.3246
6115932000	.2315	.2944
6116101510	.3655	.4648
6116101520	8528	1.0844
6116103510	8528	1.0844
6116922010	1.0965	1.3943
6116922020	1.0965	1.3943
6116922030	1.2183	1.5492
6116922040	1.0965	1.3943
6116922060	1.2183	1.5492
6116922070	1.0965	1.3943
6116923000	1.0965	1.3943

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversation factor	Cents/kg.
6116926020	1.0965	1.3943
6116926030	1.2183	1.5492
6116926040	1.0965	1.3943
6116929000	1.0965	1.3943
6116932010	.1218	.1549
6116932011	.1218	.1549
6116932020	.1218	.1549
6117800010	.9747	1.2394
6117800035	.3655	.4648
6201121000	.9480	1.2055
6201122010	.8953	1.1385
6201122050	.6847	.8707
6201122060	.6847	.8707
6201134015	.2107	.2679
6201134030	.2633	.3348
6201921000	.9267	1.1784
6201921500	1.1583	1.4729
6201922010	1.0296	1.3092
6201922020	1.2871	1.6367
6201922030	1.2871	1.6367
6201922040	1.2871	1.6367
6201922050	1.0296	1.3092
6201922060	1.0296	1.3092
6201931000	.3089	.3928
6201932020	.2574	.3273
6201933000	1.1700	1.4878
6201933510	.2574	.3273
6201933520	.2574	.3273
6202121000	.9372	1.1917
6202122010	1.1064	1.4069
6202122025	1.3017	1.6552
6202122050	.8461	1.0759
6202122060	.8461	1.0759
6202134005	.2664	.3388
6202134020	.3330	.4234
6202134030	.3330	.4234
6202921000	1.0413	1.3241
6202921500	1.0413	1.3241
6202922025	1.3017	1.6552
6202922060	1.0413	1.3241
6202922070	1.0413	1.3241
6202931000	.3124	.3972
6202934500	1.1833	1.5047
6202935010	.2603	.3310
6202935020	.2603	.3310
6202990060	.2603	.3310
6203122010	.1302	.1656
6203191010	1.0413	1.3241
6203221000	1.3017	1.6552
6203322010	1.2366	1.5725
6203322040	1.2366	1.5725
6203332010	.1302	.1656
6203392010	1 1715	1.4897
6203394060	.2603	.3310
6203422010	.9961	1.2666
6203422025	.9961	1.2666
6203422050	.9961	1.2666
6203422090	.9961	1.2666
6203424005	1.2451	1.5833
6203424010	1.2451	1.5833
6203424015	.9961	1.2666
6203424020	1.2451	1.5833
6203424025	1.2451	1.5833
6203424030	1.2451	1.5833
6203424035	1.2451	1.5833
6203424040	.9961	1.2666
6203424045	.9961	1.2666
6203424050	.9238	1.1747
6203424055	.9238	1.1747
6203424060	.9238	1.1747
6203431500	.1245	.1583
6203434010	.1232	.1567
6203434020	.1232	.1567
6203434030	.1232	.1567
6203434040	.1232	.1567
6203492010	.1245	.1583
6203492030	.1245	.1583

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversation factor	Cents/kg.
6203493045	.2490	.3166
6204132010	.1302	.1656
6204192000	.1302	.1656
6204193090	.2603	.3310
6204221000	1.3017	1.6552
6204223030	1.0413	1.3241
6204223040	1.0413	1.3241
6204223050	1.0413	1.3241
6204223060	1.0413	1.3241
6204223065	1.0413	1.3241
6204292015	.3254	.4138
6204292020	.3254	.4138
6204292040	.3254	.4138
6204322010	1.2366	1.5725
6204322030	1.0413	1.3241
6204322040	1.0413	1.3241
6204394060	.2603	.3310
6204423010	1.2728	1.6185
6204423030	.9546	1.2139
6204423040	.9546	1.2139
6204423050	.9546	1.2139
6204423060	.9546	1.2139
6204444010	.4831	.6143
6204490060	.2603	.3310
6204510010	.0666	.0847
6204522010	1.2654	1.6091
6204522030	1.2654	1.6091
6204522040	1.2654	1.6091
6204522070	1.0656	1.3550
6204522080	1.0656	1.3550
6204533010	.2664	.3388
6204594060	.2664	.3388
6204610010	.0623	.0792
6204622010	.9961	1.2666
6204622025	.9961	1.2666
6204622050	.9961	1.2666
6204624005	1.2451	1.5833
6204624010	1.2451	1.5833
6204624020	.9961	1.2666
6204624025	1.2451	1.5833
6204624030	1.2451	1.5833
6204624035	1.2451	1.5833
6204624040	1.2451	1.5833
6204624045	.9961	1.2666
6204624050	.9961	1.2666
6204624055	.9854	1.2530
6204624060	.9854	1.2530
6204624065	.9854	1.2530
6204631200	.1245	.1583
6204633510	.2548	.3237
6204633530	.2546	.3237
6204633532	.2437	.3099
6204633540	.2437	.3099
6204692510	.2490	.3166
6204692530	.2490	.3166
6204692540	.2437	.3099
6204699040	.2490	.3166
6205202015	.9961	1.2666
6205202020	.9961	1.2666
6205202025	.9961	1.2666
6205202030	.9961	1.2666
6205202035	1.1206	1.4250
6205202046	.9961	1.2666
6205202050	.9961	1.2666
6205202060	.9961	1.2666
6205202065	.9961	1.2666
6205202070	.9961	1.2666
6205202075	.9961	1.2666
6205302010	.3113	.3958
6205302030	.3113	.3958
6205302040	.3113	.3958
6205302050	.3113	.3958
6205302070	.3113	.3958
6205302080	.3113	.3958
6205902040	.1245	.1583
6206100040	.1245	.1583
6206303010	.9961	1.2666

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversation factor	Cents/kg.
6206303020	.9961	1.2666
6206303030	.9961	1.2666
6206303040	.9961	1.2666
6206303050	.9961	1.2666
6206303060	.9961	1.2666
6206403010	.3113	.3958
6206403030	.3113	.3958
6206403050	.3113	.3958
6206900040	.2490	.3166
6207110000	1.0852	1.3799
6207190010	.3617	.4599
6207210010	1.1085	1.4096
6207210030	1.1085	1.4096
6207220000	.3695	.4699
6207911000	1.1455	1.4566
6207913000	1.1455	1.4566
6208210010	1.0583	1.3457
6208210020	1.0583	1.3457
6208220000	.1245	.1583
6208911010	1.1455	1.4566
6208913010	1.1455	1.4566
6208920010	.1273	.1619
6208920030	.1273	.1619
6209201000	1.1577	1.4721
6209203000	.9749	1.2397
6209205030	.9749	1.2397
6209205035	.9749	1.2397
6209205040	1.2186	1.5496
6209205045	.9749	1.2397
6209205050	.9749	1.2397
6209303010	.2463	.3132
6209303020	.2463	.3132
6209303030	.2463	.3132
6209303040	.2463	.3132
6210104015	.2291	.2913
6210301020	.0891	.1133
6210401010	.0391	.0497
6210401020	.4556	.5793
6210401030	.4556	.5793
6210401050	.4556	.5793
6210501020	.0911	.1158
6211111010	.1273	.1619
6211111020	.1273	.1619
6211112010	1.1455	1.4566
6211112020	1.1455	1.4566
6211201535	.2473	.3145
6211201565	.2473	.3145
6211320003	.6769	.8607
6211320005	.8461	1.0759
6211320007	.8461	1.0759
6211320010	1.0413	1.3241
6211320015	1.0413	1.3241
6211320030	.9763	1.2415
6211320060	.9763	1.2415
6211320070	.9763	1.2415
6211320080	.9763	1.2415
6211330010	.3254	.4138
6211330030	.3905	.4966
6211330035	.3905	.4966
6211330040	.3905	.4966
6211330050	.3905	4966
6211330060	.3905	.4966
6211420010	1.0413	1.3241
6211420020	1.0413	1.3241
6211420025	1.1715	1.4897
6211420050	1.1715	1.4897
6211420060	1.0413	1.3241
6211420070	1.1715	1.4897
6211420080	1.1715	1.4897
6211430010	.2603	.3310
6211430030	.2603	.3310
6211430050	.2603	.3310
6211430060	.2603	.3310
6211430070	.2603	.3310
6211430090	.2603	.3310
6211490020	.2603	.3310
6212101020	.2412	.3067

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversation factor	Cents/kg.
6212102010	.9646	1.2266
6212102020	.2412	.3067
6212200020	.3014	.3833
6212900010	.7717	.9813
6212900030	.1929	.2453
6213201000	1.1809	1.5016
6213202000	1.0628	1.3515
6213901000	1.0628	1.3515
6213901000	.4724	.6007
6214300000	.1206	.1534
6214400000	.1206	.1534
6214900010	.9043	1.1499
6216001000	.3617	.4599
6216001510	.3617	.4599
6216002540	.1743	.2216
6216003810	1.2451	1.5833
6216003811	1.2451	1.5833
6216003820	1.2451	1.5833
6216003821	1.2451	1.5833
6216003910	1.2058	1.5333
6216003920	1.2058	1.5333
6217100010	1.0182	1.2947
6217100030	.2546	.3237
6217900075	1.0182	1.2947
6301300010	.8766	1.1147
6301300020	.8766	1.1147
6301400010	1.0626	1.3512
6302100010	1.1689	1.4864
6302211020	.8182	1.0404
6302211040	.8182	1.0404
6302212010	1.1689	1.4864
6302212020	.8182	1.0404
6302212030	1.1689	1.4864
6302212040	.8182	1.0404
6302212060	.8182	1.0404
6302212090	.8182	1.0404
6302222010	.4091	.5202
6302222020	.4091	.5202
6302311060	.8182	1.0404
6302311090	.8182	1.0404
6302312010	1.1689	1.4864
6302312020	.8182	1.0404
6302312030	1.1689	1.4864
6302312040	.8182	1.0404
6302312050	.8182	1.0404
6302312055	.8182	1.0404
6302312060	.8182	1.0404
6302312090	.8182	1.0404
6302322020	.4091	.5202
6302322030	.5844	.7431
6302322040	.4091	.5202
6302402010	.9935	1.2633
6302511000	.5844	.7431
6302512000	.8766	1.1147
6302513000	.5844	.7431
6302514000	.8182	1.0404
6302600010	1.1689	1.4864
6302600020	1.0520	1.3377
6302600030	1.0520	1.3377
6302910005	1.0520	1.3377
6302910015	1.1689	1.4864
6302910025	1.0520	1.3377
6302910035	1.0520	1.3377
6302910045	1.0520	1.3377
6302910050	1.0520	1.3377
6302910060	1.0520	1.3377
6303110000	.9448	1.2014
6303910000	.6429	.8175
6303920000	.2922	.3716
6304111000	1.0629	1.3516
6304190500	1.0520	1.3377
6304191000	1.1689	1.4864
6304191500	.4091	.5202
6304192000	.4091	.5202
6304910020	.9351	1.1891
6304920000	.9351	1.1891
6304930000	1.0626	1.3512

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversation factor	Cents/kg.
6115932020	.2315	.2944
6204699044	.2490	.3166
6207913020	1.1455	1.4566

(4) Any entry of cotton that qualifies for informal entry according to regulations issued by the Customs Service will not be subject to the assessment.

(5) Imported textile articles assembled abroad in whole or in part of fabricated components, produced in the United States which;

(i) were exported from the U.S. in condition ready for assembly without further fabrication,

(ii) have not lost their physical identity in such articles by change in form, shape or otherwise, and

(iii) have not been advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process shall not be subject to assessments under this subpart. The specific HTS classifications affected under this paragraph are 9802.00.8010, 9802.00.8040, and 9802.00.8060.

(6) Imported cotton and products may be exempted by the Cotton Board from assessment under this paragraph. Such imported cotton and products may include, but are not limited to cotton and the cotton content of products which is U.S. produced cotton, or cotton other than Upland cotton.

(i) A request for such exemption must be submitted to the Cotton Board by the importer, prior to the importation of the cotton or cotton product. The Cotton Broad will then issue, if deemed appropriate, a numbered exemption certificate valid for 120 days from the date of issue. The exemption number should be entered by the importer on the Customs entry documentation in the appropriate location as determined by the U.S. Customs Service.

(ii) The request for exemption should include:

(A) the name, address, and importer identification number for the importer;

(B) the HTS classification of the imported product;

(C) weight of the product for which the exemption is sought;

(D) estimated date of entry;

(E) commercial invoices or other such documentation indicating the origin of production or type of the cotton fiber used to produce the imported product;

(F) manufacturer's descriptions of the imported product.

(7) The exemption number "999999999" shall be entered on the Customs entry summary document, in the appropriate location as determined by the U.S. Customs Service, by the importer when, based on the importer'sown determination, the imported product is identified by a Harmonized Tariff Schedule classification number which is subject to assessment but the particular article contains no cotton.

(8) Articles imported into the United States temporarily and under bond which are classified by the Harmonized Tariff Schedule heading which begins with "9813" shall not be subject to assessment.

(9) Articles imported into the U.S. after being exported from the U.S. for alterations or repairs and which are classified by the Harmonized Tariff Schedule subheadings 9802.00.40 and 9802.00.50 shall not be subject to assessment.

6. Section 1205.511 "Payment and collection" is revised to read as follows:

§ 1205.511 Payment and collection.

(a) The $1 per bale assessment shall be paid by:

(1) the producer of the cotton to the collecting handler designated in § 1205.512, and

(2) the importer of cotton to the Customs Service as provided in § 1205.514.

(b) The supplemental assessment shall be paid by:

(1) the producer of the cotton to the collecting handler designated in § 1205.513, and

(2) the importer of cotton to the Customs Service as described in § 1205.515.

(c) If more than one person subject to assessment shares in the proceeds received from a bale or bale equivalent, each such person is obligated to pay that portion of the assessment that is equivalent to that person's proportionate share of the proceeds.

(d) Failure of the handler to collect the assessments on each bale shall not relieve the handler of the handler's obligation to remit the assessments to the Cotton Board as required in §§ 1205.512, 1205.513 and 1205.516.

7. In § 1205.512 "Collecting handlers and the time of collection of $1 per bale assessment" paragraph (h) is revised to read as follows:

§ 1205.512 Collecting handlers and the time of collection of the $1 per bale assessment.

* * * * *

(h) In the event of a producer's death, bankruptcy, receivership, or incapacity to act, the representative of such producer, or the producer's estate, or the person acting on behalf of creditors, shall be considered the producer for the purposes of this section.

8. In § 1205.513 "Collecting handlers and time of collection of the supplemental assessment" paragraph (k) is revised to read as follows:

§ 1205.513 Collecting handlers and the time of collection of the supplemental assessment.

* * * * *

(k) In the event of a producer's death, bankruptcy, receivership, or incapacity to act, the representative of such producer or the producer's estate, or the person acting on behalf of creditors, shall be considered the producer for the purposes of this section.

§ 1205.518 [Redesignated for § 1205.516]

9. Section 1205.516 "Receipts of payment of assessments" is designated as § 1205.518.

§ 1205.516 [Redesignated from § 1205.514 and revised]

10. Section 1205.514 "Reports and remittance to the Cotton Board" is redesignated as § 1205.516 and revised to read as follows:

§ 1205.516 Reports and remittance to the Cotton Board.

(a) *Handler Reports and Remittances.* Each collecting handler shall transmit assessments to the Cotton Board as follows:

(1) *Reporting periods.* Each calendar month shall be a reporting period and the period shall end on the close of business on the last day of the month.

(2) *Reports.* Each collecting handler shall make reports on forms made available or approved by the Cotton Board. Each report shall be mailed to the Cotton Board and postmarked within ten days after the close of the reporting period.

(i) *Collecting handler report.* Each collecting handler shall prepare a separate report form each reporting period for each gin from which such handler handles cotton on which the handler is required to collect the assessments during the reporting period. Each report shall be mailed in duplicate to the Cotton Board and shall contain the following information:

(A) Date of report;

(B) Reporting period covered by report;

(C) Gin code number;

(D) Name and address of handler;

(E) Listing of all producers from whom the handler was required to collect the assessments, their addresses, total

number of bales, and total assessment collected and remitted for each producer;

(F) Date of last report remitting assessments to the Cotton Board.

(ii) *No Cotton Purchased Report.* Each collecting handler shall submit a no cotton purchased report form for each reporting period in which no cotton was handled for which the handler is required to collect assessments during the reporting period. A collecting handler who handles cotton only during certain months shall file a final no cotton purchased report at the conclusion of such handlers marketing season. If a collecting handler handles cotton during any month following submission of the final report for the handlers marketing season, such handler shall send a collecting handler report and remittance to the Cotton Board by the 10th day of the month following the month in which cotton was handled. The no cotton purchased report shall be signed and dated by the handler of the handler's agent.

(3) *Remittances.* The collecting handler shall remit all assessments to the Cotton Board with the report required in paragraph (a)(2) of this section. All remittances sent to the Cotton Board by collecting handlers shall be made by check, draft, or money order payable to the order of the "Cotton Board". All remittances shall be received subject to collection and payment at par.

(4) *Interest and Late Payment Charges.*

(i) There shall be an interest charge, at rates prescribed by the Cotton Board with the approval of the Secretary, on any handler who is sent a second certified mail notice of past-due assessments from the Cotton Board in any one marketing year (August 1–July 31).

(ii) In addition to the interest charge specified in paragraph (a)(4)(i) of this section, there shall be a late payment charge on any handler whose remittance is not received by the Cotton Board within 10 days after the close of the reporting period in which interest charges were first accrued. The late payment charge shall be 5 percent of the unpaid balance before interest charges have accrued.

(iii) The interest and late payment charges on the unremitted assessments for a particular reporting period will be applied from the first working day on or following the 20th day of the month in which the assessments were due.

(b) *Importer Reports and Remittance.* The United States Customs Service will transmit reports and assessments collected on imported cotton to the Agricultural Marketing Service according to the agreement between the Customs Service and the Agricultural Marketing Service. Upon the request of the Cotton Board, an importer shall file with the Board a report, for a period of time specified in the request, that includes the following information:

(1) The importer's name and address;

(2) The quantity of cotton and cotton products imported;

(3) The amount of the assessment paid on imported cotton and cotton products;

(4) The amount of imported cotton and cotton products on which the assessment was not paid to the Customs Service.

§ 1205.517 [Redesignated from § 1205.515 and Revised]

11. Section 1205.515 "Failure to report and remit" is redesignated as § 1205.517 and revised to read as follows.

§ 1205.517 Failure to report and remit.

(a) Any collecting handler who fails to submit reports and remittances according to reporting periods and time schedules required in § 1205.516 shall be subject to appropriate action by the Cotton Board which may include one or more of the following actions:

(1) Audits of the collecting handler's books and records to determine the amount owed the Cotton Board;

(2) Requirement that an escrow account for the deposit of assessments collected be established. Frequency and schedule of deposits and withdrawals from the escrow account shall be determined by the Cotton Board with the Approval of the Secretary;

(3) Referral to the Secretary for appropriate enforcement action;

(4) Publication of a collecting handler's name in accordance with the following provisions:

(i) The name of any collecting handler will be subject to publication if the collecting handler:

(A) is sent two certified mail notices of past due assessments and/or collecting handler reports from the Cotton Board in any one marketing year (August 1–July 31), or

(B) is required by the Cotton Board to establish an escrow account for depositing assessments, in accordance with paragraph (a)(2) of this section, and does not comply with the deposit procedures established by the Cotton Board with approval of the Secretary.

(ii) The name of any collecting handler who is subject to publication will be published by the Cotton Board with the approval of the Secretary in a monthly listing during the primary cotton marketing season (September through March) and a bi-monthly listing during the remainder of the year. The published listing will be distributed by the Cotton Board.

(iii) The Cotton Board, with approval of the Secretary, may notify individual producers that the assessments collected by such producer's collecting handler, whose name is subject to publication in accordance with the provisions of paragraph (a)(4)(i) of this section, have not been remitted to the Cotton Board as required.

(b) Any importer who fails to submit reports to the Cotton Board pursuant to request made according to § 1205.516 or assessments to the Customs Service, shall be subject to one or more of the following actions:

(1) Audits of the importer's books and records to determine the amount owed the Cotton Board.

(2) A deduction for the amount of any unpaid assessment by the Customs Service from the importers surety bond.

(3) Referral to the Secretary for appropriate enforcement action.

12. Section 1205.514 "Customs Service and the collection of the $1 per bale assessment" is added to read as follows:

§ 1205.514 Customs Service and the Collection of the $1 per bale assessment.

The Collection of the $1 per bale assessment by the Customs Service shall be as follows:

(a) The Customs Service will collect the assessment from the importer or from any person acting as principal, agent, broker or consignee for cotton or cotton-containing products produced outside the United States and imported into the United States. The Customs Service will collect the assessment on cotton and cotton-containing products identified by Harmonized Tariff Schedule heading numbers in § 1205.510(b)(2) at the time of importation and forward such assessment as per the agreement between the United States Customs Service and the U.S. Department of Agriculture.

(b) In the event of an importer's death, bankruptcy, receivership, or incapacity to act, the representative of such importer, or the importer's estate, or the person acting on behalf of creditors, shall be considered the importer for the purposes of this section.

13. Section 1205.515 "Customs Service and collection of the supplemental assessment" is added to read as follows:

§ 1205.515 Customs Service and the collection of the supplemental assessment.

The collection of the supplemental assessment by the Customs Service shall be as follows:

(a) The Customs Service will collect the supplemental assessment from any person acting as principal, agent, broker or consignee for cotton or cotton-containing products produced outside the United States and imported into the United States. Customs Service will collect the assessment on all cotton and cotton-containing products identified by Harmonized Tariff Schedule heading numbers in § 1205.510(b)(2) at the time of importation and forward such assessment as per the agreement between the United States Customs Service and the U.S. Department of Agriculture.

(b) In the event of an importer's death, bankruptcy, receivership, or incapacity to act, the representative of such importer, or the importer's estate, or the person acting on behalf of creditors, shall be considered the importer for the purposes of this section.

13a. The undesignated center heading preceding § 1205.520, "Refunds" is revised to read Reimbursements."

14. Section 1205.520 "Procedure for obtaining refund" is revised to read as follows:

§ 1205.520 Procedure for obtaining reimbursement.

Each importer against whose imports of cotton or cotton-containing products any assessments are made and collected may obtain a reimbursement on that portion of the assessment that was collected on cotton produced in the United States or cotton other than Upland cotton by following the procedures prescribed in this section.

(a) *Application Form.* An importer shall obtain a reimbursement application form from the Cotton Board. Such form may be obtained by written request to the Cotton Board and the request shall bear the importer's signature or the importer's properly-witnessed mark.

(b) *Submission of Reimbursement Application to Cotton Board.* Any importer requesting a reimbursement shall mail the application on the prescribed form to the Cotton Board. The application shall be postmarked within 90 days from the date the assessments were paid on the cotton by such importer. The reimbursement application shall show:

(1) The importer's name, address, phone number and Customs Service identification number;

(2) Weight of the cotton in each HTS category for which the reimbursement is requested;

(3) Subtotal amounts to be reimbursed for each HTS number and grand total to be reimbursed;

(4) Date or inclusive dates on which the assessments were paid;

(5) The name of the port of entry; and

(6) Certification by the importer that the cotton was grown in the U.S. or is other than Upland cotton.

(c) Where more than one importer shared in the assessment payment on cotton, joint or separate reimbursement application forms may be filed. In any such case, the reimbursement application shall show the names, addresses and proportionate shares of assessments paid by all importers. The reimbursement application shall bear the signature of each importer seeking reimbursement.

(d) *Proof of payment of the assessment on U.S. produced or other than Upland cotton.* A copy of the Customs entry form and the commercial invoice filed with the Customs Service shall accompany the importer's reimbursement application. Within 60 days from the date the properly executed application for reimbursement is received by the Cotton Board, the Cotton Board shall make reimbursement to the importer. For joint applications, the reimbursement shall be made payable to all eligible importers signing the reimbursement application. Documentation submitted with reimbursement applications shall not be returned to the importer.

Warehouse Receipts

15. Section 1205.525 "Entry of gin code number" is revised to read as follows:

§ 1205.525 Entry of gin code number.

The warehouse that first receives a bale for storage after ginning shall enter the gin code number of the gin at which the bale was ginned on the warehouse receipt issued for the bale.

Reports and Records

16. Section 1205.530 "Gin reports and reporting schedule" is amended by revising paragraph (a)(2) to read as follows:

§ 1205.530 Gin Reports and reporting schedule.

(a) * * *

(2) *Certificate in Lieu of End-of-Season Report.* If a gin is the collecting handler on every bale ginned at such gin and collecting handler reports and remittances of assessments have been made in accordance with § 1205.516, a certification to that effect may be made to the Cotton Board in lieu of an end-of-season report.

* * * * *

17. Section 1205.531 "Records" is revised to read as follows:

§ 1205.531 Records.

Each handler or importer required to make reports pursuant to this subpart shall maintain such books and records as are necessary to verify the reports.

18. Section 1205.532 "Retention period for reports and records" is revised to read as follows:

§ 1205.532 Retention period for reports and records.

Each handler and importer required to make reports pursuant to this subpart shall retain for at least 2 years beyond the marketing year of their applicability:

(a) One copy of the report made to the Cotton Board; and

(b) Such books and records as are necessary to verify such reports.

19. Section 1205. 533 "Availability of reports and records" is revised to read as follows:

§ 1205.533 Availability of reports and records.

Each handler and importer required to make reports pursuant to this subpart shall make available for inspection by the Cotton Board, including its designated employees, and the Secretary any reports, books, or records required under this subpart.

Confidential Information

20. Section 1205.540 "Confidential books, records, and reports" is revised to read as follows:

§ 1205.540 Confidential books, records, and reports.

All information obtained from the books, records, and reports of handlers and importers shall be kept confidential in the manner and to the extent provided for in § 1205.340.

21. Section 1205.541 "OMB control numbers" is added to the Subpart—Cotton Board Rules and Regulations and reads as follows:

§ 1205.541 OMB control numbers.

The control number assigned to the information collection requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Public Law 96–511, is OMB number 0581–0093, except Board member nominee information sheets are assigned OMB number 0505–0001.

Dated: June 25, 1992.

Jo Ann R. Smith,

Assistant Secretary Marketing and Inspection Services.

[FR Doc. 92–15355 Filed 6–29–92; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 214, 251, and 258

[INS No. 1418-92]

RIN 1115-AC42

Denial of Crewman Status in the Case of Certain Labor Disputes and Specifications of Authorized Employment

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim final rule; extension of effective date.

SUMMARY: On June 6, 1991, the Immigration and Naturalization Service (Service) published an interim rule at 56 FR 26016 which promulgated regulations implementing sections 202 and 203 of the Immigration Act of 1990, by placing certain restrictions on the admission and employment of alien crewmen during strikes and in their performance of longshore work. The June 6, 1991 interim rule expired on December 31, 1991, and was reinstated by a second interim rule which was published on February 21, 1992, at 57 FR 6183. The interim rule's effective date was further extended through June 30, 1992 by an interim rule published on April 1, 1992 at 57 FR 10978. This document extends the expiration date of the February 21, 1992 interim rule which would otherwise expire on June 30, 1992.

EFFECTIVE DATE: This rule is effective July 1, 1992, through October 31, 1992.

FOR FURTHER INFORMATION CONTACT: Michael T. Jaromin, Assistant Chief Inspector, Immigration and Naturalization Service, 425 I Street NW., room 7216, Washington, DC 20536, telephone number (202) 514-3275.

SUPPLEMENTARY INFORMATION: On June 6, 1991, the Immigration and Naturalization Service (the Service) published an interim rule in the **Federal Register** at 56 FR 26016, requesting comments by July 8, 1991. On July 10, 1991, at the request of interested parties, the Service published a notice in the **Federal Register** at 56 FR 31305, extending the comment period to August 9, 1991. The June 6, 1991 interim rule expired on December 31, 1991 and was later reinstated on February 21, 1992 through March 31, 1992. The interim rule was further extended through June 30, 1992.

The Service has determined that additional time is required to review and consider the information and comments presented by the public and to further coordinate with the Department of Labor. Therefore, the Service is extending the expiration date of the interim rule through October 31, 1992, before which time a final rule or a second interim rule is expected to be published.

Accordingly, FR Doc 92-3975, 57 FR 6183 (February 21, 1992) is amended by revising the first sentence in the **"DATES"** section to read: "This rule is effective February 21, 1992 through October 31, 1992."

Dated: June 26, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 92-15506 Filed 6-30-92; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 98

[Docket No. 89-108]

Importation of Certain Animal Embryos and Animal Semen

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning the importation of certain animal embryos and animal semen by removing all references to "Deputy Administrator" and replacing them with references to "Administrator." We are also removing all references to "Veterinary Services" and replacing them with references to "Animal and Plant Health Inspection Service." These changes are warranted so that the regulations will accurately reflect that the Administrator of the agency holds primary authority and responsibility for various decisions under the regulations.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. Samuel Richeson, Chief Staff Veterinarian, Import-Export Animals Staff, VS, APHIS, USDA, room 764, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301-436-4370.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 98 (referred to below as the regulations) concern the importation of certain animal embryos and animal semen. Prior to the effective date of this document, these regulations indicated that the Deputy Administrator, Veterinary Services, of the Animal and Plant Health Inspection Service (APHIS) was the official responsible for various decisions under these regulations. We are amending 9 CFR part 98 to indicate that the primary authority and responsibility for various decisions under these regulations belongs to the Administrator of the agency. We are making similar revisions in all other APHIS regulations. Those revisions will be published in separate **Federal Register** documents. Delegations of authority within the agency are contained in 7 CFR part 371.

We are removing all references to "Deputy Administrator" and replacing them with references to "Administrator." We are also removing all references to "Veterinary Services" and are replacing them with references to "Animal and Plant Health Inspection Service." With these changes, the terms "Deputy Administrator" and "Veterinary Services" no longer appear in the regulations. Therefore, we are deleting the definitions of those terms. We are also adding definitions of "Administrator" and "Animal and Plant Health Inspection Service." Additionally, we are revising APHIS mailing addresses to reflect the current addresses.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity to comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Public Law 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

Executive Order 12372

These programs/activities under 9 CFR part 98 are listed in the Catalog of Federal Domestic Assistance under No. 10.025 and are subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule:

(1) Preempts all State and local laws and regulations that are in conflict with this rule;

(2) Has no retroactive effect; and

(3) Does not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 98

Animal diseases, Animal embryos, Imports.

Accordingly, we are amending 9 CFR part 98 as follows:

PART 98—IMPORTATION OF CERTAIN ANIMAL EMBRYOS AND ANIMAL SEMEN

1. The authority citation for part 98 continues to read as follows:

Authority: 7 U.S.C. 1622; 21 U.S.C. 103, 104, 105, 111, 134a, 134b, 134c, 134d, 134f; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

§ 98.2 [Amended]

2. In § 98.2, the definitions of *Deputy Administrator* and *Veterinary Services* are removed, and definitions of *Administrator* and *Animal and Plant Health Inspection Service* are added, in alphabetical order, to read as follows:

§ 98.2 Definitions.

* * * * *

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS).

* * * * *

§ 98.4 [Amended]

3. In § 98.4(b), remove the words "Import-Export Animals and Products Staff, Veterinary Services, APHIS, USDA" and add, in their place, the words "Administrator, c/o Import-Export Animals Staff, VS, APHIS, USDA, room 764".

§§ 98.3, 98.9, and 98.10 [Amended]

4. In addition to the amendments set forth above, in 9 CFR part 98, remove the word "Deputy" in the following places:

(a) Section 98.3(g);

(b) Section 98.9; and

(c) Section 98.10, both times the word appears.

§§ 98.2, 98.4, and 98.7 [Amended]

5. In addition to the amendments set forth above, in 9 CFR part 98, remove the words "Veterinary Services" and add, in their place, the word "APHIS" in the following places:

(a) Section 98.2, definition of "Inspector;"

(b) Section 98.4 (a) and (d); and

(c) Section 98.7, introductory text.

Done in Washington, DC, this 19th day of June 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-14979 Filed 6-30-92; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-233-AD; Amendment 39-8269; AD 92-12-08]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 727 series airplanes, which currently requires that certain landing gear brakes be inspected for wear and replaced if prescribed wear limits are not met, and that the landing gear maximum brake wear limits be incorporated into the FAA-approved maintenance inspection program. This amendment requires the inspection to detect wear of certain additional landing gear brakes that were not listed in the existing rule; replacement of the brakes if the wear limits prescribed in this amendment are not met; and the incorporation of new maximum wear limits into the FAA-approved maintenance inspection program. This amendment is prompted by the determination of the allowable maximum wear limits for the additional brakes. The actions specified by this AD are intended to prevent the loss of braking effectiveness of the landing gear brakes.

DATES: Effective August 5, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 5, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124; Allied-Signal Aerospace Company, Bendix Wheels and Brakes Division, South Bend, Indiana 46628; and BFGoodrich Aerospace, Aircraft Wheels and Brakes, P.O. Box 340, Troy, Ohio 45373. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David M. Herron, Aerospace Engineer, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056, telephone (206) 227-2672, fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 91-18-07, Amendment 39-8010 (56 FR 51162, October 10, 1991), which is applicable to Model 727 series airplanes, was published in the Federal Register on January 10, 1992 (57 FR 1122). The action proposed to require that certain landing gear brakes installed on Model 727 series airplanes be inspected for wear and replaced if the wear limits prescribed are not met, and that maximum wear limits for landing gear brakes be incorporated into the FAA-approved maintenance inspection program.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposal.

One commenter points out that BFGoodrich Service Bulletin 2-190-32-13, as was called out in paragraph (d) of the published proposal, should be corrected to read "BFGoodrich Service Bulletin No. 2-1190-32-13." The FAA notes this error and has corrected the service bulletin reference in paragraph (d) of the final rule accordingly.

One commenter requests that the maximum dimensional wear limit for the BFGoodrich 2-873 brake be changed. This commenter states that the proposed limit of 0.43 inch for this brake is erroneous and does not allow for the use of tolerance buildup during brake rebuild. Further, the 2-873 brake does not have a wear pin; the fully worn condition of this brake is indicated when the adjuster pins are flush with the adjuster bushings. Therefore, this commenter recommends that the maximum acceptable worn condition of

the 2–873 brakes be defined as "when the adjuster pin is flush with an adjuster bushing." This criteria is identical to established procedures and assures full compliance with the worn brake rejected takeoff (RTO) requirements. The FAA concurs that the wear limit requirements for the 2–873 brake should be revised as requested. Since a specific brake wear limit (in terms of "inches") is not normally considered when replacing this particular brake, the FAA considers it more appropriate to specify the applicable indicators for replacement, i.e., "when the adjuster pin is flush with an adjuster bushing." In light of this, the final rule has been revised to remove the 2–873 brake from Table 2 of paragraph (f), and to include a new paragraph (h) to specify the correct replacement requirements for this particular brake.

One commenter requests that this AD action be issued as a "revision" rather than a "supersedure" of the existing AD. The commenter states that adoption of the rule as a supersedure will require operators now in compliance with AD 91–18–07 to change their paperwork to reflect the new AD number. While paperwork changes are admittedly not a great expense item, this commenter believes that superseding an existing AD in this instance serves no useful purpose. The FAA does not concur. The FAA's current policy (reference FAA Order 8040.1B) is that, whenever a "substantive change" is made to an existing AD, the AD must be superseded, rather than revised. "Substantive changes" are those made to any instruction or reference that affects the substance of the AD, and includes part numbers, service bulletin and manual references, compliance times, applicability, methods of compliance, corrective action, inspection requirements, and effective dates. In the case of this AD rulemaking action, the changes being made to the existing AD are considered substantive. This superseding AD is assigned a new amendment number and new AD number; the previous amendment is deleted from the system. This procedure facilitates the efforts of the Principal Maintenance Inspectors in tracking AD's and ensuring that the affected operators have incorporated the latest changes into their maintenance programs.

With regard to paperwork changes required by affected operators, Federal Aviation Regulations (FAR) § 121.380(a)(2)(v), "Maintenance recording requirements," requires that persons holding an operating certificate and operating under FAR part 121 must keep records "indicating the current status of applicable airworthiness directives, including the method of compliance." Whether an existing AD is superseded or revised, the new AD is assigned a new AD number: A superseding AD is assigned a new 6-digit AD number; a revising AD retains the original 6-digit AD number, but an "R1" is added to it. In either case, the new AD is identified by its "new" AD number, not by the "old" AD number. In light of this, affected operators updating their maintenance records to indicate the current AD status would have to record a new AD number in all cases, regardless of whether the AD is a superseding or a revising AD. Further, operators are always given credit for work previously performed in accordance with the existing AD by means of the phrase in the compliance section of the AD that states, "Required * * * unless accomplished previously." This AD also provides credit for work previously performed by retaining the requirements of the previous AD in paragraphs (a) and (b) of the final rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 1,706 Model 727 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 953 airplanes of U.S. registry and 27 operators will be affected by this AD action. (Approximately 26 airplanes and 13 operators are added by this AD action.)

The FAA estimates that, for 943 of the affected airplanes, it would take approximately 15 work hours per airplane to accomplish the required actions, at an average labor cost of $55 per work hour. In addition, the cost of parts to accomplish the change in wear limits for these 943 affected airplanes (that is, the cost resulting from the requirement to change brakes before they are worn to their previously approved limits for a one-time change) will average $2,500 per airplane. Based on these figures, the cost impact of this AD on U.S. operators of these airplanes will be $3,135,475, or $3,325 per airplane.

For the other 10 affected airplanes, the FAA estimates that it would take approximately 15 work hours per airplane to accomplish the required actions, at an average labor cost of $55 per work hour. In addition, the cost of parts to accomplish the change in wear limits to these 10 affected airplanes (the cost resulting from the requirement to change brakes before they are worn to their previously approved limits for a one-time change) will average $5,580 per airplane. Based on these figures, the cost impact of this AD on U.S. operators of these airplanes will be $64,050, or $6,405 per airplane.

Further, the FAA estimates that it will require 20 work hours per operator, at an average labor cost of $55 per work hour, to incorporate the requirements into an operator's FAA-approved maintenance inspection program. Based on these figures, the total cost impact of the AD on 27 affected U.S. operators is estimated to be $29,700, or $1,100 per operator.

Based on the figures discussed above, the total cost impact of this AD on U.S. operators will be $3,229,295. Of this total cost figure, approximately $100,750 is added by this specific AD action (that is, the costs relative to the 26 airplanes and 13 operators added by the requirements of this AD). These total cost figures assume that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-8010 (56 FR 51162, October 10, 1991), and by adding a new airworthiness directive (AD), amendment 39-8269, to read as follows:

92-12-08. Boeing: Amendment 39-8269. Docket No. 91-NM-233-AD. Supersedes AD 91-18-07, Amendment 39-8010.

Applicability: Model 727 series airplanes; equipped with brake part numbers (P/N) identified in Tables 1 and 2 of this AD, and BFGoodrich brake P/N 2-873; certificated in any category.

Compliance required as indicated, unless accomplished previously.

To prevent loss of main landing gear braking effectiveness, accomplish the following:

(a) Within 180 days after November 12, 1991 (the effective date of Amendment 39-8010, AD 91-18-07) inspect brakes having the part numbers shown in Table 1, below, for wear. Any brake worn more than the maximum wear limit specified must be replaced, prior to further flight, with either a brake within that maximum wear limit or one built in accordance with the applicable service bulletins specified in paragraphs (c), (d), or (e) of this AD, as applicable.

TABLE 1

Brake mfr.	Brake P/N	Boeing P/N	Maximum wear limit (inches)
BFGoodrich	2-1147	10-61287-10	1.6
BFGoodrich	2-1147-1	10-61287-12	1.6
BFGoodrich	2-1147-3	10-61287-18	1.6
BFGoodrich	2-1147-4	10-61287-25	1.6
BFGoodrich	2-1190	10-61287-13	1.6
Bendix	2601182-6	10-61287-23	1.7

(b) Within 180 days after November 12, 1991 (the effective date of Amendment 39-8010, AD 91-18-07), incorporate the maximum brake wear limits specified in paragraph (a) of this AD into the FAA-approved maintenance program.

(c) The allowable wear limits for BFGoodrich (BFG) brake part numbers 2-1147 and 2-1147-1, -3, and -4 may be established in accordance with BFG Service Bulletin No. 2-1147-32-13, dated December 21, 1990, and placed into the operator's FAA-approved maintenance program in lieu of those specified in paragraph (a) of this AD.

(d) The allowable wear limit for BFG brake part number 2-1190 may be established in accordance with BFG Service Bulletin No. 2-1190-32-13, dated December 21, 1990, and placed into the operator's FAA-approved maintenance program in lieu of that specified in paragraph (a) of this AD.

(e) The allowable wear limits for Bendix brake part number 2601182-6 may be established in accordance with Bendix (Allied Signal Aerospace Company) Service Bulletin No. 2601182-32-014, dated January 30, 1991, in lieu of that specified in paragraph (a) of this AD. Either that service bulletin or the wear limit specified in paragraph (a) of this AD shall be placed into the operator's FAA-approved maintenance program, but not both.

(f) Within 180 days after the effective date of this AD, inspect brakes having the part numbers shown in Table 2, below, for wear. Any brake worn more than the maximum wear limit specified must be replaced, prior to further flight, with a brake within that maximum wear limit:

TABLE 2

Brake mfr.	Brake P/N	Boeing P/N	Maximum wear limit (inches)
Bendix	2601182-5	10-61287-22	1.8
BFGoodrich	2-872-5	10-60465-18	0.50

(g) Within 180 days after the effective date of this amendment incorporate the maximum brake wear limits specified in Table 2 of paragraph (f) of this AD into the operator's FAA-approved maintenance program.

(h) For airplanes equipped with brakes having BFGoodrich P/N 2-873: Within 180 days after the effective date of this amendment, incorporate the following into the operator's FAA-approved maintenance program:

"Replace BFGoodrich P/N 2-873 brakes prior to or when the adjuster pin is flush with the adjuster bushing."

(i) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(j) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(k) The alternative maximum brake wear limits shall be established in accordance with BFGoodrich Service Bulletin No. 2-1147-32-13, dated December 21, 1990; BFGoodrich Service Bulletin No. 2-1190-32-13, dated December 21, 1990; or Bendix (Allied Signal Aerospace Company) Service Bulletin No. 2601182-32-014, dated January 30, 1991; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124; Allied-Signal Aerospace Company, Bendix Wheels and Brakes Division, South Bend, Indiana 46628; or BFGoodrich Aerospace, Aircraft Wheels and Brakes, P.O. Box 340, Troy, Ohio 45373. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(l) This amendment becomes effective on August 5, 1992.

Issued in Renton, Washington, on May 21, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-15396 Filed 6-30-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-254-AD; Amendment 39-8282; AD 92-13-12]

Airworthiness Directives; Boeing Model 747-300 and 747-400 Series Airplanes Equipped With BFGoodrich Door 1, 2, 4, and 5 Evacuation Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to certain Boeing Model 747-300 series airplanes and all Model 747-400 series airplanes equipped with certain BFGoodrich escape slide/rafts. This amendment requires modification of the main deck doors' 1, 2, 4, and 5 evacuation systems. This amendment is prompted by reports indicating that deployed escape slide/rafts inflate slowly due to high internal regulator friction, or experience low pressure at low ambient temperatures. The actions specified by this AD are intended to prevent delayed inflation of the escape slide/rafts, which could delay or impede the evacuation of passengers during an emergency.

DATES: Effective August 5, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 5, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from BFGoodrich Company, Aerospace, Aircraft Evacuation Systems, 3414 South 5th Street, Phoenix, Arizona 85040. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 E. Spring Street, Long Beach, California; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Andrew Gfrerer, Aerospace Engineer, Mechanical/Environmental and Crashworthiness Section, ANM-131L, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 E. Spring Street, Long Beach, California 90806-2425; telephone (310) 988-5338; fax (310) 988-5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747-300 series airplanes and all Model 747-400 series airplanes equipped with certain BFGoodrich escape slide/rafts was published in the **Federal Register** on January 8, 1992 (57 FR 655). That action proposed to require modification of the main deck doors' 1, 2, 4, and 5 evacuation systems.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the rule as proposed.

Two commenters request that the economic analysis paragraph be revised to reflect total costs for all slides/rafts, rather than costs per slide/raft, in order to correctly represent the cost to operators. There are a total of eight slides/rafts on each airplane: 6 slide/rafts at doors 1, 4, and 5; and 2 slide/rafts at door 2. The FAA concurs, and the economic analysis paragraph, below, has been revised accordingly.

Two commenters request that the proposed 12-month compliance time be extended to 36 months so that the modification can be accomplished during a scheduled overhaul of the slide/rafts. Both commenters contend that safety should be assured in the interim, based on the fact that documented cases of slow inflation are, with one exception, well within Federal Aviation Regulation requirements, and all units that were delivered met the certification criteria. Another commenter, BFGoodrich, has advised it can neither manufacture nor procure sufficient components to support the proposed 12-month compliance time, and concludes that the shortest compliance time that could be supported would be 24 months after issuance of the final rule. The FAA concurs that the compliance time may be extended. In developing the originally proposed compliance time, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspect of installing the required modifications during operators' normal maintenance schedules. Based on the new data concerning parts availability provided by the slide manufacturer, the FAA has now determined that extending the compliance time to 24 months is appropriate. The final rule has been revised accordingly.

Since issuance of the notice, BFGoodrich has issued Revision 1 to Service Bulletin 25-232, dated March 16, 1992. This revision is essentially the same as the original, but includes procedures for applying Parker "Super-O-Lube" lubricant on all O-ring surfaces for the regulator valve. The FAA has revised the final rule to reflect this latest revision to the service bulletin as an additional source of service information.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither significantly increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 243 Model 747-300 and 747-400 series airplanes of the affected design in the worldwide fleet. It is estimated that 38 airplanes of U.S. registry would be affected by this proposed AD. The slide manufacturer will provide required parts to operators on an exchange basis at no cost to operators.

If the required modification is performed during a regular maintenance check, it will take approximately 2 work hours per slide/raft at doors 1, 4, and 5 to accomplish; there is a total of 6 slide/rafts at doors 1, 4, and 5, left and right. It would take approximately 4 work hours per slide/raft at door 2 to accomplish the modification; there is a total of 2 slide/rafts at door 2, left and right. The average labor rate is $55 per work hour. In this case, the total cost per airplane will be $1,100.

If the required modification is accomplished at a time other than during scheduled maintenance, it will take approximately 13.5 work hours per slide/raft at doors 1, 4, and 5 to accomplish; there is a total of 6 slide/rafts at doors 1, 4, and 5, left and right. It will take approximately 15.5 work hours per slide/raft at door 2 to accomplish the modification; there is a total of 2 slide/rafts at door 2, left and right. The average labor rate is $55 per work hour. In this case, the total cost per airplane will be $6,160.

Based on the figures described above the total cost impact of the AD on U.S. operators will be between $41,800 and $234,080. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-13-12. **Boeing:** Amendment 39-8282. Docket 91-NM-254-AD.

Applicability: Boeing Model 747-400 series airplanes equipped with BF Goodrich slide/raft P/N 7A1467-1 through-16 (main deck, doors 1 and 4), P.N 7A1479-1 Through-10 (main deck, door 2), P/N 7A1469-1 through-8 (main deck, door 5); and Boeing 747-300 airplanes equipped with BF Goodrich slide/raft PN 7A1479-1 through-10 (main deck, door 2); certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent delayed inflation of deployed escape slide/rafts, accomplish the following:

(a) For main deck doors 1, 2, 4, and 5: Within 24 months after the effective date of this AD, modify the regulator, P/N 5A2851-1 or-2 (subassembly of reservoir assembly P/N 5A2832-1 or-2), to become reservoir assembly P/N 5A2832-3; and perform a regulator leak check; in accordance with the Accomplishment Instructions, paragraphs 2.A. through 2.F., of BF Goodrich Service Bulletin 25-232, dated November 18, 1991; or Revision 1, dated March 16, 1992.

(b) For main deck door 2: Within 24 months after the effective date of this AD, modify the aspirators, P/N 4A3166-1, to form new aspirator assembly P/N 5A2870-1, in accordance with the Accomplishment Instructions, paragraph 2.G., of BF Goodrich Service Bulletin 25-232, dated November 18, 1991; or Revision 1, dated March 16, 1992.

(c) Subsequent to accomplishing the requirements of paragraph (a) and (b) of this AD, reidentify the modified slide/rafts in accordance with paragraph 3.B., Identification, of BF Goodrich Service Bulletin 25-232, dated November 18, 1991; or Revision 1, dated March 16, 1992.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Los Angeles ACO.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The modifications shall be done in accordance with BF Goodrich Service Bulletin 25-232, dated November 18, 1991; or BF Goodrich Service Bulletin 25-232, Revision 1, dated March 16, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from BF Goodrich Company, Aerospace, Aircraft Evacuation Systems, 3414 South 5th Street, Phoenix, Arizona 85040. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 E. Spring Street, Long Beach, California; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(g) This amendment becomes effective on August 5, 1992.

Issued in Renton, Washington, on June 5, 1992.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-15451 Filed 6-30-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 92-NM-118-AD; Amendment 39-8290; AD 92-14-08]

Airworthiness Directives; Aerospatiale Model ATR42-300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42-300 series airplanes, that currently requires modification of the engine and propeller control cables by adding a sealing sheath and protective sleeve, and installation of a deflector on the engine aft upper cowling below the zone ventilation air inlet. The actions specified in that AD are intended to prevent a malfunction of the engine and propeller controls. This amendment deletes the requirement of that AD to install a deflector, since a separate AD was recently issued to require the installation of an improved deflector. The similar requirements of the two AD's currently are in conflict.

DATES: Effective July 1, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 1, 1992.

Comments for inclusion in the Rules Docket must be received on or before August 31, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-118-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Lium, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-1112; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: On December 9, 1988, the FAA issued AD 88-26-04, Amendment 39-6904 (53 FR 51095, December 20, 1988), to require

modification of the engine and propeller control cables by adding a sealing sheath and protective sleeve, and installation of a deflector on the engine aft upper cowling below the zone ventilation air inlet. That action was prompted by reports of accumulation of water in the engine and propeller control cables causing corrosion and/or the formation of ice in the cables. The actions required by that AD are intended to prevent a malfunction of the engine and propeller controls.

Since the issuance of that AD, the FAA has issued AD 92-09-01, Amendment 39-8226 (57 FR 14793, April 23, 1992), which requires the installation of an improved heat deflector on the rear upper cowl, and a thermal bridge between the teleflex controls and the air conditioning duct. At the time the FAA issued that AD, it inadvertently failed to reconcile the deflector installation requirements of AD 92-09-01 with the similar requirements previously required by AD 88-26-04. Consequently, the two requirements conflict with each other, and the FAA has determined that the deflector installation required by AD 88-26-04 must be deleted.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since the unsafe condition presented by the malfunctioning of the engine and propeller controls is likely to exist or develop on airplanes of this same type design, action is taken herein to supersede AD 88-26-04 with a new AD that continues to require modification of the engine and propeller control cables by adding a sealing sheath and protective sleeve. However, this action deletes the previous requirement for the specific deflector installation cited in AD 88-26-04.

Paragraph (b) of this AD has been revised to clarify the procedure for requesting alternative methods of compliance with this AD.

Since this AD deletes a requirement that conflicts with the requirements of another AD, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "**ADDRESSES.**" All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-118-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-6094 (53 FR 51095, December 20, 1988), and by adding a new airworthiness directive (AD), amendment 39-8290, to read as follows:

92-14-08. Aerospatiale: Amendment 39-8290. Docket 92-NM-118-AD. Supersedes AD 88-26-04, Amendment 39-6094.

Applicability: Model ATR42-300 series airplanes; as listed in Aerospatiale Service Bulletins ATR42-76-0002, Revision 1, dated May 16, 1988; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent a malfunction of the engine and propeller controls, accomplish the following:

(a) Within 60 days after February 3, 1989 (the effective date of AD 88-26-04, Amendment 39-6094), modify the engine and propeller push-pull control cables on the left and right engines by adding a sealing sheath and protective sleeve, in accordance with Aerospatiale Service Bulletin ATR42-76-0002, Revision 1, dated May 16, 1988.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The modification shall be done in accordance with Aerospatiale Service Bulletin ATR42-76-0002, Revision 1, dated May 16, 1988, which incorporates the following list of effective pages:

Page No.	Revision level	Date
1-3	1	May 16, 1988.
4	Original	Jan. 18, 1988.

The incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(e) This amendment becomes effective on July 1, 1992.

Issued in Renton, Washington, on June 17, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-15440 Filed 6-30-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 92-CE-10-AD; Amendment 39-8300; AD 92-15-06]

Airworthiness Directives; Beech 33 and 36 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 91-23-07, which currently requires initial and repetitive inspections of the rudder forward spar for cracks on certain Beech 33 and 36 series airplanes, replacement if found cracked, and an extension of the repetitive inspections if a Space Machine Products (SMP) reinforcement bracket is installed. This action retains the requirements of AD 91-23-07, but requires accomplishment in accordance with new service information and eliminates the need for repetitive inspections if one of three modifications to the rudder spar is accomplished. The actions specified by this AD are intended to prevent separation of the rudder from the airplane caused by cracks in the forward rudder spar.

DATES: Effective August 22, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 22, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4122; Facsimile (316) 936-4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain Beech 33 and 36 series airplanes was published in the **Federal Register** on March 3, 1992 (57 FR 7559). The action proposed superseding AD 91-23-07 with a new Ad that would (1) retain the inspection and possible replacement requirements of the rudder forward spar that is required by AD 91-23-07; (2) require accomplishment of these actions in accordance with Beech Service Bulletin No. 2333, Revision 1, dated November 1991; and (3) eliminate the need for the repetitive inspections if one of three modifications to the rudder forward spar is accomplished.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the one comment received.

The comment is from the Beech Aircraft Corporation. Beech states that the reference to paragraph (b)(1) in this same paragraph of the proposed AD should be referenced as paragraph (b)(4). Presently, paragraph (b)(1) is written "Reinspect * * * until either paragraph (b)(1), (b)(2), or (b)(3) of this Ad is accomplished;". The FAA concurs that the paragraph should be corrected and paragraph (b)(1) of the proposed AD has been changed to read "Reinspect * * * until either paragraph (b)(2), (b)(3), or (b)(4) of this Ad is accomplished;".

Beech also states that the reference to Kit No. 33-60001-1 S as specified in paragraphs (b)(2) and (c)(2) of the proposed AD is incorrect and should refer to Kit No. 33-6601-1 S. The FAA concurs and has changed paragraphs (b)(2) and (c)(3) of the proposed AD accordingly.

No comments have been received on the FAA's determination of the cost of the proposed AD to the public.

After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the changes discussed above as a result of the comments and minor editorial corrections. The FAA has determined that these minor changes and corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 5,900 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 2 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $649,000. The only differences between the actions of this AD and that required by AD 91-23-07, which will be superseded by this AD, are a revision in the service information and the option of eliminating repetitive inspections by accomplishing one of three modifications. There is no additional cost impact on U.S. operators than that which is already required by AD 91-23-07.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 91–23–07, Amendment 39–8076 (56 FR 56149, November 1, 1991), and adding the following new AD:

92–15–06 Beech: Amendment 39–8300; Docket No. 92–CE–10–AD. Supersedes AD 91–23–07, Amendment 39–8076.

Applicability: The following Beech model and serial numbered airplanes, certificated in any category:

Models	Serial Nos.
35–33, 35–A33, 35–B33, 35–C33, E33, F33, and G33.	CD–1 through CD–1304.
35–C33A, E33A, and F33A.	CE–1 through CE–1425.
E33C and F33C	CJ–1 through CJ–179
36 and A36	E–1 through E–2518
A36TC and B36TC	EA–1 through EA–500.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished (superseded AD 91–23–07).

To prevent separation of the rudder from the airplane caused by cracks in the forward rudder spar, accomplish the following:

(a) Upon the accumulation of 1,000 hours time-in-service (TIS) or within the next 100 hours TIS, whichever occurs later, inspect the rudder forward spar for cracks in accordance with the instructions in Beech Service Bulletin (SB) No. 2333, Revision i, dated November 1991.

(b) If no cracks are found per the inspection required in paragraph (a) of this AD, accomplish one of the following:

(1) Reinspect the rudder forward spar for cracks in accordance with the instructions in Beech SB No. 2333, Revision 1, dated November 1991, at intervals not to exceed 500 hours TIS until either paragraph (b)(2), (b)(3), or (b)(4) of this AD is accomplished;

(2) Install Kit No. 33–6001–1 S in accordance with Beech SB No. 2333, Revision 1, dated November 1991;

(3) Install a Spacecraft Machine Products (SMP) reinforcement bracket in accordance with Supplemental Type Certificate (STC) SA4899NM; or

(4) Replace the rudder assembly with either part number 33–630000–137, –139, –141, –167, or –169, whichever is applicable, in accordance with the instructions in Beech SB No. 2333, Revision 1, dated November 1991.

(c) If cracks are found per the inspection required by paragraph (a) of this AD, prior to further flight, accomplish one of the following:

(1) Replace the rudder assembly with either part number 33–630000–137, –139, –141, –167, or –169, whichever is applicable, in accordance with the instructions in Beech SB No. 2333, Revision 1, dated November 1991;

(2) Install Kit No. 33–6001–1 S in accordance with Beech SB No. 2333, Revision 1, dated November 1991; or

(3) If the cracks are only in the area of the upper hinge around the rivets and fasteners as specified in Beech SB No. 2333, Revision 1, dated November 1991, then a SMP reinforcement bracket may be installed in accordance with SA4899NM after the cracks are stop drilled.

(d) If a modification or replacement has been accomplished in accordance with either paragraph (b)(2), (b)(3), (b)(4), (c)(1), (c)(2), or (c)(3) of this AD, then no repetitive inspections or further action is required by this AD.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(g) The inspections and possible replacements or installations required by this AD shall be done in accordance with Beech Service Bulletin No. 2333, Revision I, dated November 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 1100 L Street, NW; Room 8401, Washington, DC.

(h) This amendment (39–8300) supersedes AD 91–23–07, Amendment 39–8076.

(i) This amendment (39–8300) becomes effective on August 22, 1992.

Issued in Kansas City, Missouri, on June 24, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–15411 Filed 6–30–92; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 92–NM–13–AD; Amendment 39–8278; AD 92–13–08]

Airworthiness Directives; Boeing Model 747–400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–400 series airplanes, that requires installation of shields and tape to keep unwanted materials away from the drain mast heater elements. This amendment is prompted by reports of fires in the drain mast areas. The actions specified by this AD are intended to prevent fires in the drain mast internal space.

DATES: Effective August 5, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 5, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Don Eiford, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2788; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747–400 series airplanes was published in the Federal Register on February 12, 1992 (57 FR 5094). That action proposed to require installation of shields and tape to keep unwanted materials away from the drain mast heater elements.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Two commenters supported the proposal.

One commenter notes that there may be some additional foreign-operated airplanes that were modified after delivery to include a drain mast configuration similar to that addressed by the proposal; however, these airplanes were not included in the applicability of the proposal. The commenter requests clarification as to whether those airplanes are affected by the requirements of the proposal. The FAA recognizes that additional rulemaking action may be necessary to address the worldwide fleet of airplanes that were equipped with affected drain mast configurations after delivery. However, further identification and verification of the existence of such airplanes is necessary before additional rulemaking can be initiated. This final rule is issued without change in the applicability.

One commenter, an operator, requests an extension of the compliance time for the installation of protective material in the aft drain mast from the proposed 12 months to 36 months. This commenter describes specific "cleanliness procedures" that are currently used, with regard to its fleet of affected airplanes, to reduce the possibility of debris accumulating in the drain mast area. This commenter considers that an extension to the compliance time would be appropriate due to the low risk of accumulation of debris in this area. The FAA does not concur. Since the cargo compartment floor is not sealed, debris can come in contact with either of the drain mast heater elements and subsequently cause a fire in the drain mast internal space. Although the aft drain mast is located in a relatively more restricted access area than the mid drain mast, the aft drain mast is still subject to the accumulation of debris. As for the commenter's "cleanliness procedures," the FAA recognizes that, while these procedures may be effective for this operator in reducing the amount of debris accumulation in the affected area, other operators may not follow such procedures. In light of this, the FAA considers the 12-month compliance time, as proposed, to be appropriate. Paragraph (c) of the final rule, however, provides for the approval of adjustments of the compliance time, provided that data is submitted to substantiate that such adjustments will provide an acceptable level of safety in the interim.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 28 Model 747–400 series airplanes of the affected design in the worldwide fleet. Currently, there are no airplanes on the U.S. registry that will be affected by this proposed AD. However, should an airplane be added to the U.S. registry, it will take approximately 43 work hours per airplane to accomplish the required actions, and the average labor rate is $55 per work hour. Required parts will be provided at no cost to the operator. Based on these figures, the total cost impact of the AD is estimated to be $2,365 per airplane.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92–13–08. Boeing: Amendment 39–8278. Docket 92–NM–13–AD.

Applicability: Model 747–400 series airplanes; as listed in Boeing Alert Service Bulletin 747–38A2090, dated November 21, 1991; certificated in any category.

Compliance. Required within 12 months after the effective date of this AD, unless accomplished previously.

To prevent fires in the drain mast internal space, accomplish the following:

(a) Install shields with sealant over the mid and aft drain masts in accordance with Boeing Alert Service Bulletin 747–38A2090, dated November 21, 1991.

(b) Install moisture resistant and thermal insulation tape around the forward drain tube and heater elements on the mid and aft drain masts in accordance with Boeing Alert Service Bulletin 747–38A2090, dated November 21, 1991.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Manager, Seattle ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The installations shall be done in accordance with Boeing Alert Service Bulletin 747–38A2090, dated November 21, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 100 L Street NW., room 8401, Washington, DC.

(f) This amendment becomes effective on August 15, 1992.

Issued in Renton, Washington, on June 3, 1992.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–15452 Filed 6–30–92; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 140 and 145

Commission Eastern Regional Office; Change of Address

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule amendments.

SUMMARY: The Commodity Futures Trading Commission is amending its regulations to include the new address for its recently relocated Eastern Regional Office. This office, while remaining in the same city, has moved to a new location in the same building in New York, New York. The Commission is also amending part 145, appendix A to show the new address for obtaining records from the Central Regional Office and to show the new telephone number for the Western Regional Office.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Gerry Smith, Office of the Executive Director, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC, 20581, (202) 254–6090.

SUPPLEMENTARY INFORMATION: Commission regulation 140.2 is being amended to reflect the fact that the Eastern Regional Office of the Commission has been moved. The Eastern Regional Office of the Commission has moved from 1 World Trade Center, suite 4747, New York, New York, 10048 to 1 World Trade Center, suite 3747, New York, New York, 10048.

Certain other provisions of the Commission's regulations contain references to or addresses of the Commission's Eastern Regional Office. The appropriate changes have been made to reflect the new addresses in each of these provisions.

The following rules shall be effective immediately. The Commission finds that the amendments relate solely to agency organization, procedure or practice and that the public procedures and publication, prior to the effective date of the amendments, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 53, are not required.

Based upon the foregoing, pursuant to its authority contained in section 2(a)(11) of the Commodity Exchange Act, 7 U.S.C. 4a(j) (1976), the Commission hereby amends parts 140 and 145 of the Code of Federal Regulations as follows:

PART 140—[AMENDED]

1. The authority citation for part 140 continues to read as follows:

Authority: 17 U.S.C. 12a.

2. Section 140.2 is amended by revising paragraph (a) to read as follows:

§ 140.2 Regional Offices—Regional Directors.

* * * * *

(a) The Eastern Regional Office is located at 1 World Trade Center, suite 3747, New York, New York 10048 and is responsible for enforcement of the act and administration of programs of the Commission in the States of Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia.

* * * * *

PART 145—[AMENDED]

3. The authority citation for part 145 continues to read as follows:

Authority: Pub.L. 89–554, 80 Stat. 383, Pub.L. 90–23, 81 Stat. 54, Pub.L. 93–502, 88 Stat. 1561–1564 (5 U.S.C. 552); Sec. 101(a), Pub. L. 93–463, 88 Stat. 1389 (5 U.S.C. 4a(j); Pub.L. 99–570, unless otherwise noted.

Section 1456.6(d) is revised to read as follows:

§ 145.6 Commission offices to contact for assistance; registration records available.

(a) Whenever this part directs that a request be directed to the FOI, Privacy and Sunshine Acts compliance staff at the principal office of the Commission in Washington, DC, the request shall be made in writing and shall be addressed or otherwise directed to the Assistant Secretary for FOI, Privacy and Sunshine Acts Compliance, Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. The telephone number of the compliance staff is (202) 254–3382. Requests for public records directed to a regional office of the Commission pursuant to § 145.0(c) and 145.2 should be sent to:

Division of Economic Analysis, Commodity Futures Trading Commission, One World Trade Center, suite 3747, New York, New York 10048, Telephone: (212) 466–2061.

Division of Trading and Markets, Commodity Futures Trading Commission, 300 South Riverside Plaza, suite 1600 North, Chicago, Illinois 60606, Telephone: (312) 353–5990.

Division of Trading and Markets, Commodity Futures Trading Commission, 510 Grain Exchange Building, Minneapolis, Minnesota 55415, Telephone: (612) 370–3255.

Division of Trading and Markets, Commodity Futures Trading Commission, 4900 Main Street, suite 721, Kansas City, Missouri 64112, Telephone: (816) 374–6602.

Division of Enforcement, Commodity Futures Trading Commission, 10880 Wilshire Blvd., suite 1005, Los Angeles, California 90024, Telephone: (310) 575–6783.

5. Appendix A to part 145 is amended by revising paragraph (b) to read as follows:

Section 145 Appendix A—Compilation of Commission Records Available to the Public

* * * * *

(g) Division of Trading and Markets. Publicly available portions of registration documents are available from the Division of Trading and Markets, Commodity Futures Trading Commission, 300 South Riverside Plaza, suite 1600 North, Chicago, Illinois 60606 or from the National Futures Association, 200 West Madison Street, Chicago, Illinois 60606. See Commission Rule 145.6.

* * * * *

Issued in Washington, DC, on June 24, 1992, by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 92–15309 Filed 6–30–92; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205–AA90

Wage and Hour Division

29 CFR Part 507

RIN 1215–AA70

Attestations by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports

AGENCIES: Employment and Training Administration, Labor; and Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Interim final rule; extension of effective date.

SUMMARY: The Department of Labor has promulgated regulations for filing and enforcement of attestations by employers seeking to use certain alien crewmembers to perform longshore work at U.S. ports. This document extends the expiration date of the interim final rule.

DATES: Effective June 29, 1992 the expiration of the interim final rule published on May 30, 1991, as corrected at 56 FR 29431 (June 27, 1991), and extended by documents published January 3, 1992 (57 FR 182) and April 1, 1992 (57 FR 10989) is extended through July 10, 1992.

FOR FURTHER INFORMATION CONTACT: On 20 CFR part 655, subpart F, and 29 CFR part 506, subpart F, contact Flora Richardson, Chief, Division of Foreign Labor Certifications, United States Employment Service, Employment and Training Administration, Department of Labor, room N-4470, 200 Constitution Avenue, NW., Washington, DC 20210.

Telephone: (202) 535-0174 (this is not a toll-free number).

On 20 CFR part 655, subpart G, and 29 CFR part 506, subpart G, contact Solomon Sugarman, Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 523-7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On May 30, 1991, the Department of Labor (DOL) published an interim final rule adding, at 20 CFR part 655, subparts F and G, and at 29 CFR Part 507, subparts F and G, regulations for filing and enforcement of attestations by employers seeking to use certain alien crewmembers to perform longshore work at U.S. ports, pursuant to section 258 of the Immigration and Nationality Act. 56 FR 24648 (May 30, 1991); see 8 U.S.C. 1288. Public comments were invited through July 29, 1991, and the interim final rule was effective from May 28, 1991, through December 31, 1991. The expiration date later was extended through March 31, 1992. 57 FR 182 (January 3, 1992). It was further extended through June 30, 1992. 57 FR 10989 (April 1, 1992).

DOL has determined that it requires additional time to publish the final rule. This additional time will extend past June 30, 1992. So as not to have an interruption in the regulations governing the program, DOL is extending the expiration date for the interim final rule, before which time a final rule is expected to be published.

Accordingly, FR Doc. 91-12718, 56 FR 24648 (May 30, 1991), is amended, by revising the first sentence in the "**DATES**" section to read *"Effective dates:* May 28, 1991, through July 10, 1992."

Signed at Washington, DC, this 26th day of June, 1992.

Lynn Martin,

Secretary of Labor.

[FR Doc. 92-15522 Filed 6-29-92; 9:02 am]

BILLING CODE 4510-30-M; 4510-27-M

Occupational Safety and Health Administration

29 CFR Part 1910

Update of Addresses for Obtaining Technical Manuals; Corrections

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule; correcting amendments.

SUMMARY: This document corrects certain addresses for obtaining technical manuals in §§ 1910.1450 and 1910.1500.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Director of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, room N-3649, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1910

Occupational Safety and Health.

Accordingly, 29 CFR part 1910, subpart Z is corrected by making the following correcting amendments:

PART 1910—[CORRECTED]

1. The authority citation for 29 CFR part 1910, subpart Z continues to read in part as follows:

Authority: Secs. 6, 8 Occupational Safety and Health Act, 29 U.S.C. 655, 657; Secretary of Labor's Orders 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736) or 1-90 (55 FR 9033), as applicable; and 29 CFR part 1911.

All of subpart Z issued under section 6(b) of the Occupational Safety and Health Act, 29 U.S.C. 655(b) except those substances listed in the Final Rule Limits columns of Table Z-1-A, which have identical limits listed in the Transitional Limits columns of Table Z-1-A, Table Z-2 or Table Z-3. The latter were issued under section 6(a) (29 U.S.C. 655(a)).

* * * * *

Sections 1910.1200, 1910.1499 and 1910.1500 also issued under 5. U.S.C. 553.

Section 1910.1450, is also issued under secs. 6(b), 8(c), and 8(g)(2), Pub. L. 91-596, 84 Stat. 1593, 1599, 1600; 2a U.S.C. 655, 657.

§ 1910.1450 [Corrected]

2. In 29 CFR 1910.1450, appendix B, reference (b) 1, the address for the American Conference of Governmental Industrial Hygienists is revised from "P.O. Box 1937, Cincinnati, Ohio 45201" to "6500 Glenway Avenue, Bldg. D-7, Cincinnati, Ohio 45211-4438".

3. In 29 CFR 1910.1450, appendix B, reference (c)1. is revised to read "American Conference of Governmental Industrial Hygienists Industrial Ventilation (latest edition), 6500 Glenway Avenue, Bldg. D-7, Cincinnati, Ohio 45211-4438.

§ 1910.1500 [Corrected]

4. In 29 CFR 1910.1500, the address for the American Conference of Governmental Industrial Hygienists is revised from "1014 Broadway, Cincinnati, Ohio 45202" to "6500 Glenway Avenue, Bldg. D-7, Cincinnati, Ohio 45211-4438".

Signed at Washington, DC, this 25th day of June, 1992.

Dorothy L. Strunk,

Acting Assistant Secretary of Labor.

[FR Doc. 92-15365 Filed 6-30-92; 8:45 am]

BILLING CODE 4510-26-M

Occupational Safety and Health Administration

29 CFR Part 1910

RIN 1218-AB26

Air Contaminants; Corrections

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule; correcting amendments.

SUMMARY: This document makes corrections to a final rule issued by OSHA on January 19, 1989 at 54 FR 2332 and to 29 CFR 1910.1000 both concerning air contaminants.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Director of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, room N-3649, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION: OSHA published its final rule on Air Contaminants on January 19, 1989 at 54 FR 2332-2983. That rule amended 29 CFR 1910.1000 and its tables. On July 5, 1989 at 54 FR 28054-28061 and on November 15, 1989 at 54 FR 47513 OSHA

published corrections to the preamble and the rule.

Certain additional errors in the final rule have come to OSHA's attention. In addition several printing errors have arisen during the reprintings in the Code of Federal Regulations. This document corrects those errors and makes a clarification.

OSHA never raised the issue of exposure limits for bivalent and trivalent chromium compounds in the Air Contaminants rulemaking. It did raise the issue of exposure limits for chromium metal, but decided to make no changes as discussed at 54 FR 2508–9. However, in error the final rule changed the nomenclature of those substances from that of the original standard. Compare 29 CFR 1910.1000 (1988). Accordingly, OSHA is correcting the nomenclature for those substances to that of the original standard.

Although OSHA properly identified the various forms of crystalline silica in the Air Contaminants proposal, errors in nomenclature appeared in the final rule. See also the *Encyclopedia of Chemical Technology*, Kirk-Othmer, Clinical Ed., Vol. 20, pp. 755–764. Accordingly, OSHA is correcting the nomenclature for the forms of crystalline silica.

OSHA is adding a footnote at the end of Table Z–3 clarifying that all inert or nuisance dusts, whether mineral, inorganic or organic are covered by the Particulate Not Otherwise Regulated (PNOR) limit in Table Z–1–A and not by the nuisance dust entry of Table Z–3. This reflects OSHA's final decision discussed at 54 FR 21596–7.

The formaldehyde entry in Table Z–2 is deleted because all formaldehyde exposures are covered by 29 CFR 1910.1045. The date in footnote "***" to Table Z–1–A is corrected to December 31, 1993 to reflect the requirements of 29 CFR 1910.1000(f)(2)(ii). Footnote b of Table Z–1–A is restated to be clearer. A footnote is added to the carbon monoxide ceiling entry reflecting OSHA's enforcement policy that it is appropriate to monitor the 200 ppm ceiling over a 5 minute period, with an instantaneous ceiling of 1500 ppm (the IDLH Level). The other entries correct typographical errors.

List of Subjects in 29 CFR Part 1910

Air Contaminants, Health, Occupational safety and health, Toxic substances.

Accordingly, 29 CFR part 1910 is corrected by making the following correcting amendments:

PART 1910—[CORRECTED]

1. The authority citation for 29 CFR part 1910, subpart Z continues to read in part as follows:

Authority: Secs. 6, 8 Occupational Safety and Health Act, 29 U.S.C. 655, 657; Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033), as applicable; and 29 CFR part 1911.

All of Subpart Z issued under section 6(b) of the Occupational Safety and Health Act, 29 U.S.C. 655(b) except those substances listed in the Final Rule Limits columns of Table Z–1–A, which have identical limits listed in the Transitional Limits columns of Table Z–1–A, Table Z–2 or Table Z–3. The latter were issued under section 6(a) (29 U.S.C. 655(a)).

Section 1910.1000, the Transitional Limits columns of Table Z–1-A, Table Z–2 and Table Z–3 are also issued under 5 U.S.C. 553. § 1910.1000, the Transitional limits columns of Table Z–1–A, Table Z–2 and Table Z–3 are not issued under 29 CFR Part 1911 except for the arsenic, benzene, cotton dust and formaldehyde listings.

* * * * *

§ 1910.1000 [Corrected]

2. In § 1910.1000(a)(3), the last three words which read "Revised Limits columns" are revised to read "Final rule limits columns.".

3. In § 1910.1000 Table Z–1–A, the first "Acetone" entry (the entire line) is removed. (The second "Acetone" entry remains unchanged).

4. In § 1910.1000, Table Z–1–A, after the second "Acetone" entry, an omitted entry is added as follows: In the Substance col., the name "Acetonitrile"; in the CAS No. col., the number "75–05–8"; in the Transitional limits columns, in the ppm col., the number "40" and in the mg/m³ col., the number "70"; and in the Final rule limits columns, in the TWA ppm col., the number "40", in the TWA mg/m³ col., the number "70", in the STEL ppm col., the number "60", and in the STEL mg/m³ col., the number "105".

5. In § 1910.1000 Table Z–1–A, the entry for Carbon monoxide, a footnote superscript "m" is placed after "200" in the ceiling ppm col., and is placed after "229" in the Ceiling mg/m³ col. and a footnote "(m)" is added at the end of Table Z–1–A to read "Sampling for the carbon monoxide ceiling shall be averaged over 5 minutes but an instantaneous reading over 1500 ppm shall not be exceeded.".

6. In § 1910.1000 Table Z–1–A, the entry for "Chromium (II) compounds (as Cr)" (the entire line) is removed.

7. In § 1910.1000 Table Z–1–A, Substance col., the entry for "Chromium (III) compounds (as Cr)" is revised to read "Chromium, sol. chromic, chromous salts (as Cr)".

8. In § 1910.1000 Table Z–1–A, the entry "Chromium, metal (as Cr)" is revised to read "Chromium, metal and insoluble salts".

9. In § 1910.1000 Table Z–1–A, the entry for "2,4-D (Dichlorylphenoxyacetic acid)" is revised to read "2,4-D (Dichlorophenoxyacetic acid)".

10. In § 1910.1000 Table Z–1–A, the entry "Dimethylaniline (N-Dimethyl-aniline)" is revised to read "Dimethylaniline (N,N-Dimethylaniline)".

11. In § 1910.1000 Table Z–1–A, the entry for Emery, the CAS No. is revised to read "12415–34–8".

12. In § 1910.1000 Table Z–1–A, the entry for Formaldehyde, the Substance column is revised to read "Formaldehyde; see 1910.1048."

13. In § 1910.1000 Table Z–1–A, the entry for Iron oxide fume, under Transitional limits, the number "10" is removed from the Skin designation column and added to the mg/m³ column; and under Final rule limits, the number "10" is removed from the STEL ppm column and added to the TWA mg/m³ column.

14. In § 1910.1000 Table Z–1–A, the entry "Petroleum distillates (Naphtha)" is revised to read "Petroleum distillates (Naphtha) (Rubber Solvent)".

15. In § 1910.1000 Table Z–1–A, the entry "Silica, crystalline cristobalite (as quartz), respirable dust" is revised to read "Silica, crystalline cristobalite, respirable dust".

16. In § 1910.1000 Table Z–1–A, the entry "Silica, crystalline quartz (as quartz), respirable dust" is revised to read "Silica, crystalline quartz, respirable dust".

17. In § 1910.1000 Table Z–1–A, the entry "Silica, crystalline tridymite (as quartz), respirable dust" is revised to read "Silica, crystalline tridymite, respirable dust".

18. In § 1910.1000 Table Z–1–A, the entry for Sulfur dioxide, the number "10" in the Final rule limits, STEL, mg/m³ column is revised to read the number "13".

19. In § 1910.1000 Table Z–1–A, the entry "Vinylcyanide; see Acrylonitrile" is revised to read "Vinyl cyanide; see Acrylonitrile".

20. In § 1910.1000 Table Z–1–A, the footnotes following the Table; the date "December 31, 1992" in footnote ** (double asterisks) is revised to read "December 31, 1993".

21. In § 1910.1000 Table Z–1–A, the footnotes following the Table; Footnote "(b)" is revised to read "Milligrams of substance per cubic meter of air. When a numerical entry for a substance is in the mg/m³ column and not in the ppm

column, then the number in the mg/m³ column is exact. When numerical entries for a substance are in both the ppm and mg/m³ columns, then the number in the ppm column is exact and the number in the mg/m³ column may be rounded off.".

22. In § 1910.1000 Table Z–3, the footnote superscript "g" is added after the entry "INERT OR NUISANCE DUST" and Footnote "g" is added in alphabetical order to read "All inert or nuisance dusts, whether mineral, inorganic, or organic, not listed specifically by substance name, are covered by the Particulates Not Otherwise Regulated (PNOR) limit in Table Z–1–A."

Signed at Washington, DC, this 25th day of June, 1992.

Dorothy L. Strunk,

Acting Assistant Secretary of Labor.

[FR Doc. 92–15364 Filed 6–30–92; 8:45 am]

BILLING CODE 4510–26–M

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29 CFR Part 1910

[Docket No. H–370]

Occupational Exposure to Bloodborne Pathogens; Correction

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule, correction.

SUMMARY: The Occupational Safety and Health Administration is correcting errors in the regulatory text of the final rule for Occupational Exposure to Bloodborne Pathogens which appeared in the **Federal Register** on December 6, 1991 (56 FR 64004).

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Occupational Safety and Health Administration, Office of Information and Public Affairs, room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone: (202) 523–8151.

SUPPLEMENTARY INFORMATION:

Background

OSHA has promulgated a standard to eliminate or minimize occupational exposure to Hepatitis B Virus (HBV), Human Immunodeficiency Virus (HIV) and other bloodborne pathogens (56 FR 64004). In the final rule OSHA determined that employees faced a significant health risk as the result of occupational exposure to blood and other potentially infectious materials because they may contain bloodborne pathogens, including hepatitis B virus which causes Hepatitis B, a serious liver disease, and human immunodeficiency virus, which causes Acquired Immunodeficiency Syndrome (AIDS).

Need for Correction

During the proofreading process of the regulation, technical and typographical errors were discovered. This notice is being published to correct those errors.

Correction of Publication

The following corrections are made in the final rule for Occupational Exposure to Bloodborne Pathogens published in the **Federal Register** on December 6, 1991 (56 FR 64004).

§ 1910.1030 [Correction]

1. On page 64004, first column, third heading, "29 CFR Part 1910.1030" should be corrected to read "29 CFR part 1910".

2. On page 64176, second column, § 1910.1030(d)(2)(vii)(A) is corrected to read:

"(A) Contaminated needles and other contaminated sharps shall not be bent, recapped or removed unless the employer can demonstrate that no alternative is feasible or that such action is required by a specific medical or dental procedure.".

3. On page 64176, second column, § 1910.1030(d)(2)(vii)(B) is corrected to read:

"(B) Such bending, recapping or needle removal must be accomplished through the use of a mechanical device or a one-handed technique.".

4.–5. On page 64180, second column, § 1910.1030(g)(1)(i)(B), remove the second "BIOHAZARD" term which appears in this paragraph, immediately above § 1910.1030(g)(1)(i)(C).

6. On page 64180, second column, § 1910.1030(g)(1)(i)(C), third line, is corrected to read "so, with lettering and symbols in a".

7. On page 64180, second column, § 1910.1030(g)(1)(i)(D), is corrected to read:

"(D) Labels shall be affixed as close as feasible to the container by string, wire, adhesive, or other method that prevents their loss or unintentional removal.".

8. On page 64180, third column, § 1910.1030(g)(1)(ii)(A), ninth line, remove the second "BIOHAZARD" term which appears in this paragraph.

9. On page 64180, third column, § 1910.1030(g)(1)(ii)(B), third line, is corrected to read "lettering and symbols in a contrasting".

10. On page 64181, first column, § 1910.1030(g)(2)(vii)(A) is corrected to read:

"(A) An accessible copy of the regulatory text of this standard and an explanation of its contents;".

11. On page 64181, third column, § 1910.1030(h)(1)(iii)(B) is corrected to read:

"(B) Not disclosed or reported without the employee's express written consent to any person within or outside the workplace except as required by this section or as may be required by law.".

12. On page 64181, third column, § 1910.1030(h)(3)(ii) is corrected to read:

"(ii) Employee training records required by this paragraph shall be provided upon request for examination and copying to employees, to employee representatives, to the Director, and to the Assistant Secretary.".

13. On page 64181, third column, § 1910.1030(i)(2) is corrected to read:

"(2) The Exposure Control Plan required by paragraph (c) of this section shall be completed on or before May 5, 1992.".

Dated: June 25, 1992.

Dorothy L. Strunk,

Acting Assistant Secretary of Labor.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 169a

[DoD Instruction 4100.33]

Commercial Activities Program Procedures

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: The Department of Defense is revising its rules regarding the Commercial Activities Program Procedures to incorporate changes to Part 169a required by Office of Management and Budget (OMB) interim procedural changes to their Circular A–76, "Performance of Commercial Activities," August 3, 1983, and is implementing the DoD policies established in 32 CFR Part 169. This amendment is designed to provide current instructions to the DoD Commercial Activities Program.

DATE EFFECTIVE: July 8, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Earl DeHart, telephone 703–756–5641.

SUPPLEMENTARY INFORMATION: In FR Doc 91–30348, appearing in the Federal Register (56 FR 15442) on December 27, 1991, the Office of the Secretary of Defense published part 169a as a proposed rule to incorporate substantive changes to part 169a required by OMB

revision and DoD guidance. The Office of the Secretary of Defense previously published part 169a on November 14, 1979 (44 FR 65503) and on April 4, 1890 (45 FR 22924). Some comments and editorial changes received from internal DoD Components were incorporated into the final rule. The following presentations within part 169a have been removed: Attachment 1 to appendix C, Fact Sheet for Direct Conversion; Attachment 1 to appendix D, Cost Companions Record (CCR) and Attachment 2 to appendix D, Direct Conversion Record (DCR); and appendix E, Public Law 96–342, as amended by the Public Law 97–252.

The Deputy Assistant Secretary of Defense (Installations) (ASD(P&L)) has determined that this action is not a major rule as defined by Executive Order 12291. The rule will not have an annual effect on the economy of $100 million or more; cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or have a significant adverse effect on competition, employment, investment, productivity, or innovation. The rule is not subject to the Regulatory Flexibility Act of 1980, and does not have a significant impact on a substantial number of small entities. Finally, the ASD (P&L) also determined that this rule does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980.

List of Subjects in 32 CFR Part 169a

Armed forces, Government procurements.

Accordingly, 32 CFR part 169a is amended as follows:

PART 169a—[AMENDED]

1. The authority citation for part 169a is revised to read as follows:

Authority: 5 U.S.C. 301 and 552.

2. Footnote 1 is revised to read as follows: "Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161."

3. Footnote 8 is removed and footnotes 5–7 are redesignated as 6–8.

4. Section 169a.2 is revised to read as follows:

§ 169a.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Defense Agencies and DoD Field Activities (hereafter referred to collectively as the "DoD Components").

(b) Contains DoD procedures for CAs in the United States, its territories and possessions, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) Is not mandatory for CAs staffed solely with DoD civilian personnel paid by nonappropriated funds, such as military exchanges. However, this part is mandatory for CAs when they are staffed partially with DoD civilian personnel paid by or reimbursed from appropriated funds, such as libraries, open messes, and other morale, welfare, and recreation (MWR) activities. When related installation support functions are being cost-compared under a single solicitation, a DoD Component may decide that it is practical to include activities staffed solely with DoD civilian personnel paid by nonappropriated funds.

(d) Does not apply to DoD governmental functions are defined in § 169a.3.

(e) Does not apply when contrary to law, Executive orders, or any treaty or international agreement.

(f) Does not apply in times of a declared war or military mobilization.

(g) Does not provide authority to enter into contracts.

(h) Does not apply to the conduct of research and development, except for severable in-house CAs that support research and development, such as those listed in Appendix A to this part.

(i) Does not justify conversion to contract solely to avoid personnel ceilings or salary limitations.

(j) Doe not authorize contracts that establish employer-employee relations between the Department of Defense and contractor employees as described in the Federal Acquisition Regulation (FAR), 48 CFR 37.104.

(k) Does not establish and shall not be construed to create any substantive or procedural basis for anyone to challenge any DoD action or inaction on the basis that such action or inaction was not in accordance with this part except as specifically set forth in § 169a.15(d).

5. Section 169a.3 is amended by revising the definition "Preferential procurement program" as follows:

§ 169a.3 Definitions.

* * * * *

Preferential procurement programs. Mandatory source programs such as Federal Prison Industries (FPI) and the workshops administered by the Committee for Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act. Also included are small, minority and disadvantaged businesses, and labor surplus area set-asides and awards made under 15 U.S.C. section 637.

6. Section 169a.4 is revised to read as follows:

§ 169a.4 Policy.

(a) *Ensure DoD mission accomplishment.* The implementation of this part shall consider the overall DoD mission and the defense objective of maintaining readiness and sustainability to ensure a capability for mobilizing the defense and support structure.

(b) *Retain governmental functions in-house.* Certain functions that are inherently governmental in nature, and intimately related to the public interest, mandate performance by DoD personnel only. These functions are not in competition with commercial sources; therefore, these functions shall be performed by DoD personnel.

(c) *Rely on the commercial sector.* DoD Components shall rely on commercially available sources to provide commercial products and services, except when required for national defense, when no satisfactory commercial source is available, or when in the best interest of direct patient care. DoD Components shall not consider an in-house new requirement, an expansion of an in-house requirement, conversion to in-house, or otherwise carry on any CAs to provide commercial products or services if the products or services can be procured more economically from commercial sources.

(d) *Achieve economy and enhance productivity.* Encourage competition with the objective of enhancing quality, economy, and performance.

When performance by a commercial source is permissible, a comparison of the cost of contracting and the cost of in-house performance shall be performed to determine who shall provide the best value for the Government, considering price and other factors included in the solicitation. If the installation commander has reason to believe that it may not be cost effective to make an award under mandatory source programs, section 8(a) of the Small Business Act or any other noncompetitive preferential procurement program, a cost comparison, or any other cost analysis, although not required by OMB Circular A–76, may be performed. Performance history will be considered in the source selection process, and high quality performance should be rewarded.

(e) *Delegate decision authority and responsibility.* DoD Components shall delegate decision authority and responsibility to lower organization levels, giving more authority to the

doers, and linking responsibility with that authority. This shall facilitate the work that installation commanders must perform without limiting their freedom to do their jobs. When possible, the installation commanders should have the freedom to make intelligent use of their resources, while preserving the essential wartime capabilities of U.S. support organizations in accordance with DoD Directive 4001.15.[5]

(f) *Share resources saved.* When possible, make available to the installation commander a share of any resources saved or earned so that the commander can improve operations or working and living conditions on the installation.

(g) *Provide Placement Assistance.* Provide a variety of placement assistance to employees whose Federal jobs are eliminated through CA competitions.

(h) *Permit interim-in-house operation.* A DoD in-house CA may be established on a temporary basis if a contractor defaults. Action shall be taken to resolicit bids or proposals in accordance with this part.

7. Section 169a.8 is amended as follows:

a. The heading is amended by revising "DD–MIL(A)" to read "DD–P&L(A)"

b. Paragraph (a) is amended as follows:

1. "(Acquisition and Logistics) (ASD(A&L)" is revised to read "(Production and logistics) (ASD(P&L)"

2. "Enclosure 1" is revised to read "Appendix A to this part"

3. "Enclosure 2" is revised to read "Appendix B to this part"

c. Paragraph (c) is revised to read as follows:

§ 169a.8 [Amended]

* * * * *

(c) Review of CAs that provide interservice support shall be scheduled by the supplying DoD Component. Subsequent cost comparisons, when appropriate, shall be executed by the same DoD Component. All affected DoD Components shall be notified of the intent to perform a review.

8. Section 169a.9 is amended as follows:

a. Paragraph (a) introductory text, (a)(1) introductory text and paragraph (a)(1)(i) are revised.

b. Paragraph (a)(1)(ii) is amended as follows:

1. "Pub. L. 98–525, section 307" in the first and third sentence is revised to read "10 U.S.C. 2646"

2. "section 307" in the third sentence is revised to read "10 U.S.C. 2464"

3. "(A&L)" is revised to read "(P&L)" in the fourth sentence each time it appears.

c. Paragraph (a)(1)(iv) is amended by revising "(A&L)" to read "(P&L)"

d. Paragraph (a)(2)(i)(A) is amended by revising "DoD FAR" to read "Defense FAR" and "(DFAR)" to read "(DFAS)"

e. Paragraph (a)(2)(i)(B) is amended as follows:

1. "at least" is revised to read "up to"

2. After "part 5" add "and part 7, subpart 7.3"

3. "CBA" is revised to read "CBD"

4. Revise "over a 30-day period" to read ", 15 days apart".

§ 169a.9 [Amended]

* * * * *

(a) DoD components shall conduct reviews of in-house CAs in accordance with their established review schedules. Existing in-house CAs, once reviewed shall be retained in-house without a cost comparison only when certain conditions are satisfied. (Detailed documentation will be maintained to support the decision to continue in-house performance). These conditions are as follows:

(1) *National Defense.* In most cases, application of this criteria shall be made considering the wartime and peacetime duties of the specific positions involved rather than in terms of broad functions.

(i) A CA, staffed with military personnel who are assigned to the activity, may be retained in-house for national defense reason when the following apply.

(A) The CA is essential for training or experience in required military skills;

(B) The CA is needed to provide appropriate work assignments for a rotation base for overseas or sea-to-shore assignments; or

(C) The CA is necessary to provide career progression to needed military skill levels.

* * * * *

f. Paragraph (a)(2)(ii)(D), last sentence, is amended by removing the word "not"

9. Section 169a.10 is revised as follows:

§ 169a.10 Contracts.

When contract cost becomes unreasonable or performance becomes unsatisfactory, the requirement must be resolicited. If the DoD Component competes in the resolicitation, then a cost comparison of a contracted CA shall be performed in accordance with Part III of the Supplement to OMB Circular A–76 (Office of Federal Procurement Policy pamphlet No. 4) [6], Part II of the Supplement to OMB Circular A–76 (Management Study Guide) [7], Part IV of the Supplement to OMB Circular A–76 (Cost Comparison Handbook) [8], if in-house performance is feasible. When contracted CAs are justified for conversion to in-house performance, the contract will be allowed to expire (options will not be exercised) once in-house capability is established.

10. Section 169a.11 is amended in the last sentence, after the word "facilities", the second time it appears, by adding "and equipment"

11. Sections 169a.13 is revised as follows

§ 169a.13 CAs involving forty-five or fewer DoD civilian employees.

(a) When adequately justified under the criteria required in Appendix C to this part, CAs involving 11 to 45 DoD civilian employees may be competed based on simplified cost comparison procedures and 10 or fewer DoD civilian employees may be directly converted to contract without the use of a simplified cost comparison. Such conversion shall be approved by the DoD Component's central point of contact office having the responsibility for implementation of this part. Part IV of the Supplement to OMB Circular A–76 and Appendix C to this part shall be utilized to define the specific elements of costs to be estimated in the simplified cost comparison.

(b) In no case shall any CA involving more than forty-five employees be modified, reorganized, divided, or in any way changed for the purpose of circumventing the requirement to perform a full cost comparison.

(c) The decision to perform a simplified cost comparison on a CA involving military personnel and 11 to 45 DoD Civilian employees reflects a management decision that the work need not be performed in-house. Therefore, all direct military personnel costs will be estimated in the simplified cost comparison (see Appendix C to this part) on the basis of civilian performance.

(d) A most efficient and cost-effective organization analysis certification is required for studies involving 11 to 45 DoD civilian employees (see Appendix C to this part).

12. Section 169a.15 is amended as follows:

a. Paragraphs (a), (b), the last sentence of paragraph (c)(3), (d)(1),

[5] See footnote 1 to § 169a.1(a).

[6] See footnote 3 to § 169a.1(a).

[7] See footnote 3 to § 169a.1(a).

[8] See footnote 3 to § 169a.1(a).

(d)(2) (ii)(A), (d)(2) (iii), and (d)(4)(i)(E) are revised.

b. Paragraphs (d)(2)(i), first sentence, is amended by revising "military" to read "DoD"

c. Paragraph (d)(2)(v) is amended by revising "components" to read "DoD Components" and "agencies" to read "Federal Agencies"

d. Paragraph (d)(3)(viii) is amended by removing the period at the end of the sentence and adding, "however, a MEO analysis and certification is required."

e. Paragraph (d)(4)(i)(C) is amended by revising "ASD (A&L)" to read "ASD (P&L)"

f. Paragraph (d)(4)(i)(F) is amended by revising "property disposal officer" to read "official accounting records"

g. Paragraph (d)(4)(i)(H) is amended by revising the third sentence.

h. Paragraph (d)(4)(ii)(A) is amended by removing the words "competitively obtained and"; by revising "DFAR" to read "DFARS"; and in the last sentence after "Appendix C" add "of this part"

i. Paragraphs (d)(4)(ii)(D)(*2*) and (*3*) is amended by removing the last sentence.

j. Paragraph (d)(4)(ii)(E) introductory text is amended by revising "Property Disposal" to read "Defense Reutilization and Marketing".

§ 169a.15 Special considerations.

(a) Signals Intelligence, Telecommunications (SIGINT) and Automated Information System (AIS) security.

(1) Before making a determination that an activity involving SIGINT as prescribed in Executive Order 12333, and AIS, security should be subjected to a cost comparison, the DoD Component shall specifically identify the risk to national security and complete a risk assessment to determine if the use of commercial resources poses a potential threat to national security. Information copies of the risk assessment and a decision memorandum containing data on the acceptable and/or unacceptable risk will be maintained within the requesting DoD Component's contracting office.

(2) The National Security Agency (NSA) considers the polygraph program an effective means to enhance security protection for special access type information. The risk to national security is of an acceptable level if contractor personnel assigned to the maintenance and operation of SIGINT, Computer Security (COMPUSEC) and Communications Security (COMSEC) equipment agree to an aperiodic counter-intelligence scope polygraph examination. The following clause should be included in every potential contract involving SIGINT, Telecommunications, and AIS systems:

Contract personnel engaged in operation or maintaining SIGINT, COMSEC or COMPUSEC equipment or having access to classified documents or key material must consent to an aperiodic counter-intelligence scope polygraph examination administered by the Government. Contract personnel who refuse to take the polygraph examination shall not be considered for selection.

(b) *National intelligence.* Before making a determination that an activity involving the collection/processing/production/dissemination of national intelligence as prescribed in Executive Order 12333 should be subjected to a cost comparison, the DoD Component must specifically identify the risk to national intelligence of using commercial sources. Except as noted in paragraph (a) of this section, the DoD Component shall provide its assessment of the risk to national intelligence of using commercial sources to the Director, DIA, who shall make the determination if the risk to national intelligence is unacceptable. DIA shall consult with other organizations as deemed necessary and shall provide the decision to the DoD Component. (Detailed documentation shall be maintained to support the decision).

(c) * * *

(3) * * * In all cases, the administrative control of funds must be retained by the Government since contractors or their employees cannot be held responsible for violations of the United States Code.

(d) * * *

(1) *Notification.* (i) *Congressional notification.* DoD Components shall notify Congress of the intention to do a cost comparison involving 46 or more DoD civilian personnel. DoD Components shall annotate the notification when a cost comparison is planned at an activity listed in the report to Congress on core logistics (see section 169a.9(a)(1)(ii)). The DoD Component shall notify the ADS(P&L) of any such intent at least 5 working days before the Congressional notification. The cost comparison process begins on the date of Congressional notification.

(ii) *DoD employee notification.* DoD Components shall, in accordance with 10 U.S.C. 2467(b), at least monthly during the development and preparation of the performance work statement (PWS) and management study, consult with DoD civilian employees who will be affected by the cost comparison and consider the views of such employees on the development and preparation of the PWS and management study. DoD Components may consult with such employees more frequently and on other matters relating to the cost comparison. In the case of DoD employees represented by a labor organization accorded exclusive recognition under 5 U.S.C. 7111, consultation with representatives of the labor organization satisfies the consultation requirement. Consultation with nonunion DoD civilian employees may be through such means as group meetings. Alternatively, DoD civilian employees may be invited to designate one or more representatives to speak for them. Other methods may be implemented if adequate notice is provided to the nonunion DOD civilian employees and the right to be represented during the consultations is ensured.

(iii) *Local notification.* It is suggested that upon starting the cost comparison process, the installation make an announcement of the cost comparison, including a brief explanation of the cost-comparison process to the employees of the activity and the community. The installations' labor relations specialist also should be apprised to ensure appropriate notification to employees and their representatives in accordance with applicable collective bargaining agreements. Local Interservice Support Coordinators (ISCs) and the Chair of the appropriate Joint Interservice Regional Support Group (JIRSG) also should be notified of a pending cost comparison.

(2) * * *

(ii) * * *

(A) Prepare PWSs that are based on accurate and timely historical or projected workload data and that provide measurable and verifiable performance standards.

* * * * *

(iii) Guidance on Government Property:

(A) For the purposes of this instruction, Government property is defined in accordance with the 48 CFR part 45.

(B) The decision to offer or not to offer Government property to a contractor shall be determined by a cost-benefit analysis justifying that the decision is in the government's best interest. The determination on Government property must be supported by current, accurate, complete information and be readily available for the independent reviewing activity. The design of this analysis shall not give a decided advantage or disadvantage to either in-house or contract competitors. The management of Government property offered to the contractor shall also be in compliance with 48 CFR part 45.

(4) * * *

(i) * * *

(E) DoD Components shall not use the DLA Wholesale Stock Fund Rate and/or the DLA Direct Delivery rate for supplies and materials as reflected in paragraph 3.a. (1) and (2) of Part IV of the Supplement to OMB Circular No. A-76. The current standard and pricing formula includes full cost under the Defense Business Operations Fund (DBOF). No further mark-up is required.

* * * * *

(H) * * * Military positions provided overhead support shall be costed using current military composite standard rates that include PCS costs multiplied by the appropriate support factor. * * *

* * * * *

§ 169a.16 [Amended]

13. Section 169a.16 is amended in paragraph (a) by revising "contract" to read "contracting" and paragraph (b) by revising "cost comparison" to read "in-house estimate"

14. Section 169a.17 is amended by revising paragraphs (a), (d) and (g)(1) and adding new paragraph (1) as follows:

§ 169a.17 Solicitation considerations.

* * * * *

(a) Every effort must be made to avoid postponement or cancellation of CA solicitations even if there are significant changes, omissions, or defects in the Government's in-house cost estimate. Such corrections shall be made before the expiration of bids or proposals and may require the extensions of bids or proposals. When there is no alternative, contracting officers must clearly document the reason(s).

* * * * *

(d) All contracts awarded as a result of a conversion (whether or not a cost comparison was performed) shall comply with all requirements of the FAR and DFARS.

* * * * *

(g) * * *

(1) If the Government was the next lowest bidder/offerer, and in-house performance is still feasible, the function may be returned to in-house performance. If in-house performance is no longer feasible, the contracting officer shall obtain the requirement by contract in accordance with the requirements of the FAR, 48 CFR part 49. A return to in-house performance under the above criteria shall be approved by the DoD Component's central point of contact office. This authority may not be redelegated.

* * * * *

(l) To ensure that bonds and/or insurance requirements are being used in the best interest of the Government, as a general rule, requirements (for other than construction related services) above the levels established in the FAR and DFARS should not be included in acquisitions.

15. Section 169a.18 is amended by revising paragraph (b) as follows:

§ 169a.18 Administrative appeal procedures.

* * * * *

(b) *Appeals of Simplified Cost Comparisons and Direct Conversions.*

(1) Directly affected parties may appeal decision to convert to contract based on a simplified cost comparison involving 11–45 DoD civilian employees or a direct conversion involving 10 or fewer DoD civilian employees. The appeal must address reasons why fair and reasonable prices will not be obtainable.

(2) Each DoD Component shall establish an administrative appeal procedure that is independent and objective; Installation Commanders must make available, upon request, the documentation supporting the decision to directly convert activities; appeals of direct conversions must be filed within 30 calendar days after the decision is announced in the Commerce Business Daily and/or **Federal Register**, and the supporting documentation is made available; an impartial official one level organizationally higher than the official who approved the direct conversion decision shall hear the appeal; officials shall provide an appeal decision within 30 calendar days of receipt of the appeal.

* * * * *

16. Section 169a.21 is amended as follows:

a. Paragraph (a) is amended by revising "DD-MIL(A)" to read "DD-P&L"

b. Paragraph (b) heading by revising "DD-MIL(Q)" to read "DD-P&L" and paragraph (b)(1), last sentence, after the words "without a" by adding the word "full"

c. Paragraph (c), introductory text, by removing "Pub. L. 96-342 as amended by Pub. L. 97-252, hereafter referred to as section 502 (Appendix E)" and after the word "in" by adding "10 U.S.C. 2641"

d. Paragraphs (c) (1) and (2) by revising "502" to read "10 U.S.C. 2461"

e. Paragraph (c)(2) by revising "ten" to read "forty-five"

f. Paragraph (c)(3) is revised.

g. Paragraph (c)(5) is amended by revising "ASD(A&L)" to read "Congress, when in session" and by revising "section 502(a)(2)(B)" to read "10 U.S.C. 2461".

h. Paragraph (c)(6) by revising "50" to read "75".

i. Paragraph (c)(7) is amended as follows:

1. By revising "ASD(A&L)" to read "ASD(P&L)".

2. By revising "section 502(c)" to read "10 U.S.C. 2461(c)"

3. By revising "Enclosure 1" to read "Appendix A to this part" and by adding a new sentence at the end to read as follows:

§ 169a.21 Reporting requirements.

* * * * *

(c) * * *

(3) DoD Components must not proceed with a CA study until notification to Congress, when in session, as required by 10 U.S.C. 2461. DoD Components shall notify the ASD (P&L) of any such intent at least 5 working days before congressional notification.

* * * * *

(7) * * * Also, include the number of studies you expect to complete in the next fiscal year showing total civilian and military FTEs.

* * * * *

17. Section 169a.22 is revised to read as follows:

§ 169a.22 Responsibilities.

The responsibilities for implementing the policies and procedures of the DoD CA Program are prescribed in DoD Directive 4100.15 (32 CFR part 169) and appropriate paragraphs of this part.

18. Appendix A is amended as follows:

a. The title is revised to read: **"Appendix A to Part 169a—Codes and Definitions of Functional Areas"**

b. Footnotes "13–14" are redesignated as footnotes "1–2"

c. Section T804 is amended by revising "the Brooks Act" to read "40 U.S.C. 541–554"

19. Attachment 1 to Appendix B to part 169a is amended as follow:

1. The heading is revised to read: **"Attachment 1 to Appendix B to Part 169a—Codes For Denoting States, Territories, and Possessions of the United States.**

2. The heading for section a. is revised to read: "a. NUMERIC STATE CODES (Data element reference ST-GA)"

3. Section b. is revised to read as follows:

"b. Numeric Codes for Territories and Possessions (FIPS 55-2)

60 American Samoa

66 Guam

69 Northern Marianna Islands

71 Midway Islands

72 Puerto Rico

75 Trust Territory of the Pacific Islands
76 Navassa Islands
78 Virgin Islands
79 Wake Island
81 Baker Island
86 Jarvis Island
89 Kingman Reef
95 Palmyra Atoll"

19a. Appendix B and attachment 2 to appendix B to part 169a are revised to read as follow:

Appendix B to Part 169a—Commercial Activities Inventory Report and Five-Year Review Schedule

A. General Instructions

1. Forward inventory reports before 1 January to the Defense Manpower Data Center (DMDC). Use Report Control Symbol "DD–P&L(A) 1540" and send by microcomputer magnetic tape, or terminals as a medium.

2. Transmit by use of nine-track extended binary coded decimal interchange code (EBCDIC) or 6250 density, even parity for tape medium. Data records must have 132 characters and blocked ten logical records to a block. Omit headers and trailers. Use a tape mark (end of file) to follow the data. An external label shall be used on the reel to identify the organization to which the reel is to be returned, the title of the report, the fiscal year covered, and the tape characteristics.

3. Prior permission for interface requirements must be established between DMDC and the sender before transmission of data.

4. *Data Format: In-House DoD Commercial Activities*

Data element	Tape positions	Field	Type data [1]
Designator	1	A	A
Installation		A1	
—State, territory, or possession.	2–3	A1a	N
—Place	4–9	A1b	A/N
+Function	10–14	A2	A/N
In-house civilian workload.	15–20	A3	N
Military workload	21–26	A4	N
+Reason for in-house operation.	49	A8	A
+Most recent year in-house operation approved.	50–51	A9	N
+Year DoD CA scheduled for next review.	52–53	A10	N
Installation name	76–132	A11	A

[1] A=Alpha; N=Numeric. A and A/N data shall be left justified space filled, N data shall be right justified and zero filled. +Items marked with a cross (+) have been registered in the DoD Data Element Dictionary.

5. When definite coding instructions are not provided, reference must be made to DoD 5000.12–M.[1] Failure to follow the coding instructions contained in this document, or those published in DoD 5000.12–M makes the DoD Component responsible for noncompliance or required concessions in data base communication.

B. Entry Instructions

Field	Instruction
A	Enter an A to designate that the data to follow on this record pertains to a particular DoD CA.
A1a	Enter the two-position numeric code for State (Data element reference ST–GA) or U.S. territory or possession, as shown in attachment 1 to Appendix B of this part.
A1b	Enter the unique alpha-numeric code established by the DoD Component for military installation, named populated place, or related entity where the CA workload was performed during the fiscal year covered by this submission. A separate look-up listing or file should be provided showing each unique place code and its corresponding place name.
A2	Enter the function code from Appendix A to this part that best describes the type of CA workload principally performed by the CA covered by this submission. Left justify.
A3	Enter total (full- and part-time) in-house civilian workyear equivalents applied to the performance of the function during fiscal year. Round off to the nearest whole workyear equivalent. (If amount is equal to or greater than .5, round up. If amount is less than .5, round down. Amounts between zero and 0.9 should be entered as one). Right justify. Zero fill.
A4	Enter total military workyear equivalents applied to the performance of the function in the fiscal year. Round off to the nearest whole workyear equivalent. (Amounts between zero and one should be entered as one). Right justify. Zero fill.
A8	Enter the reason for in-house operation of the CA, as shown in attachment 2 to Appendix B of this part.
A9	Enter the last two digits of the most recent fiscal year corresponding to the reason for in-house operation of the CA, as stated in Field A8.
A10	Enter the last two digits of the fiscal year the function is scheduled for study or next review. (Data element reference YE–NA.)
A11	Enter the named populated place, or related entity, where the CA workload was performed.

* * * * *

[1] See Footnote 1 to § 169a.1(a).

Attachment 2 to Appendix B to Part 169a—Codes for Denoting Compelling Reasons for In-House Operations of Planned Changes in Method or Performance

1. PERFORMANCE (for entry in field A8)

Code	Explanation
A	Indicates that the DoD CA has been retained in-house for national defense reasons in accordance with paragraph E.2.a(1) of DoD Instruction 4100.33, other than CAs reported under code "C" of this attachment.
C	Indicates that the DoD CA is retained in-house because the CA is essential for training or experience in required military skills, or the CA is needed to provide appropriate work assignments for a rotation base for overseas or sea-to-shore assignments, or the CA is necessary to provide career progression to a needed military skill level in accordance with paragraph E.2.a(1)(a) of DoD Instruction 4100.33.
D	Indicates procurement of a product or service from a commercial source would cause an unacceptable delay or disruption of an essential DoD program.
E	Indicates that there is no satisfactory commercial source capable of providing the product or service needed.
F	Indicates that a cost comparison has been conducted and that the Government is providing the product or service at a lower total cost as a result of a cost comparison.
G	Indicates that the CA is being performed by DoD personnel now, but decision to continue in-house or convert to contract is pending results of a scheduled cost comparison.
H	Indicates that the CA is being performed by DoD employees now, but will be converted to contract because of cost comparison results.
J	Indicates that the CA is being performed by DoD hospital and, in the best interest of direct patient care, is being retained in-house.
K	Indicates that the CA is being performed by DoD employees now, but a decision has been made to convert to contract for reasons other than cost.
N	Indicates that the CA is performed by DoD employees now, but a review is in progress pending a decision. (i.e., base closure, realignment, or consolidation).
X	Indicates that the Installation commander is not scheduling this CA for cost study under the provisions of congressional authority.
Y	Indicates that the CA is retained in-house because the cost study exceeded the time limit prescribed by law.
Z	Indicates that the CA is retained in-house for reasons not included above. (i.e., a law, Executive order, treaty, or international agreement).

2. USE OF OTHER CODES. Other codes may be assigned as designated by the ODASD (I).

20. Appendix C to part 169a is revised as follows:

Appendix C to Part 169a—Simplified Cost Comparison and Direct Conversion of CAs

A. This appendix provides guidance on procedures to be followed in order to convert a commercial activity employing 45 or fewer DoD civilian employees to contract performance without a full cost comparison. DoD Components may directly convert functions with 10 or fewer civilian employees without conducting a simplified cost comparison. Simplified cost comparisons may only be conducted on activities with 45 or fewer DoD civilian employees.

B. Direct conversions with 10 or fewer DoD civilian employees must meet the following criteria:

1. The activity is currently performed by 10 or fewer civilian employees.

2. The direct conversion makes sense from a management or performance standpoint.

3. The direct conversion is cost effective.

4. The installation commander must certify that all affected civilian employees will be offered jobs at that installation, or within the local area, commensurate with their current skills and pay grades. If no such vacancies exist, the employees will be offered retraining opportunities for existing or projected vacancies at that installation or within the local area. The employees potential right-of-first-refusal with civilian contractors does not satisfy this requirement. If this condition can not be met, simplified cost comparison procedures must be used to justify conversion to contract.

C. The following provides general guidance for completion of a simplified cost comparison:

1. Estimated contractor costs should be based on either the past history of similar contracts at other installations or on the contracting officer's best estimate of what would constitute a fair and reasonable price.

2. For activities small in total size (45 or fewer civilian and military personnel):

a. Estimated in-house cost generally should not include overhead costs, as it is unlikely that they would be a factor for a small activity.

b. Similarly, estimated contractor costs generally should not include contract administration, on-time conversion costs, or other contract price add-ons associated with full cost comparisons.

3. For activities large in total size (including those with a mix of civilian and military personnel) all cost elements should be considered for both in-house and contractor estimated costs.

4. In either case, large or small, the 10 percent conversion differential contained in Part IV of the Supplement to OMB Circular No. A-76 should be applied.

5. Part IV of the Supplement to OMB Circular No. A-76 shall be utilized to define the specific elements of cost to be estimated.

6. Clearance for CA simplified cost comparison decisions are required for Agencies without their own Legislative Affairs (LA) and Public Affairs (PA) offices. Those Agencies shall submit their draft decision brief to the Deputy Assistant Secretary of Defense (Installations) room 3E787, the Pentagon, Washington, DC 20301 for release to Congress.

7. Provide CA simplified cost comparison approvals containing a certification of the MEO analysis, a copy of the approval to convert, a copy of the cost comparison, with back-up data, before conversion to the following:

a. Committee on Appropriations of the House of Representatives and the Senate (11-45 civilian employees only).

b. Copies of the following:

(1) Assistant Secretary of Defense (LA), room 3D918, the Pentagon, Washington, DC 20301.

(2) Assistant Secretary of Defense (PA), room 2E757, the Pentagon, Washington, DC 20301.

(3) Office of Economic Adjustment, room 4C767, the Pentagon, Washington, DC 20301.

(4) Deputy Assistant Secretary of Defense, (Installations), room 3E787, the Pentagon, Washington, DC 20301. (exception—no copies required from Agencies that do not have legislative and public affairs offices).

8. The installation commander must certify that the estimated in-house cost for activities involving 11 to 45 DoD civilian employees are based on a completed most efficient and cost effective organization analysis. Certification of this MEO analysis, as required by Public Law 102-172, shall be provided to the Committee on Appropriations of the House of Representatives and the Senate before conversion to contract performance.

21. Appendix D to part 169a is amended as follows:

a. The two undesignated paragraphs in the introductory text of the appendix and part II in the introductory text of the appendix are revised to read as follows:

Appendix D to Part 169a—Commercial Activities Management Information System (CAMIS)

Each DoD Component shall create and manage their CAMIS data base. The CAMIS data base shall have a comprehensive edit check on all input data in the computerized system. All data errors in the CAMIS data base shall be corrected as they are found by the established edit check program. The data elements described in this appendix represents the DoD minimum requirements.

On approval of a full cost comparison, a simplified cost comparison, or a direct conversion CA, the DoD Component shall create the initial entry using the data elements in Part I for full cost comparisons and data elements in Part II for all other conversions. Within 30 days of the end of each quarter, the DoD Component shall submit automated tape or diskette, annotated with the number of records submitted and the record length. The data shall be in the format that has been agreed to by the Defense Manpower Data Center (DMDC) at least 60 days prior to the end of the quarter. All data shall be in upper case. (TAPE MEDIUM—Use 9 track tape Extended Binary Coded Decimal Interchange Code (EBCDIC) 1600 or 6250 density, even parity). The DMDC shall use the automated data to update the CAMIS. If the DoD Component is unable to provide data in an automated format, the DMDC shall provide quarterly printouts of cost comparison records (CCR) and conversion and/or comparison records (DCSCCR) that may be annotated and returned within 30 days of the end of each quarter to the DMDC. The DMDC then shall use the annotated printouts to update the CAMIS. The data elements that comprise the six sections in Part I are defined in the CAMIS Entry and Update Instructions, Part I—Cost Comparisons.

* * * * *

Part II—Direct Conversions and Simplified Cost Comparisons

The record for each direct conversion and simplified cost comparison is divided into six sections. Each of the first five sections is completed immediately following the completion of the following events:

1. DoD Component approves CA action.

2. The solicitation is issued.

3. In-house and contractor costs are compared.

4. Contract is awarded or solicitation is canceled.

5. Contract starts.

A sixth section is utilized for tracking historical data after the direct conversion or simplified cost comparison is completed. This section contains data elements on contracts and cost information during the second and third performance period. The data elements that comprise the six sections in Part II, of this Appendix, are defined in the CAMIS Entry and Update Instruction, Part II—Direct Conversions and Simplified Cost Comparisons.

* * * * *

b. Camis Entry and Update Instruction, Part I, Section One is amended as follows:

1. Paragraph [16] is redesignated as [15].

2. The first paragraph in the introductory text, paragraphs [2], [3]D, [3]K, [3]Y, [5], [6], [13], [14], and newly redesignated [15] are revised; and add new paragraphs [3]2, and [3]3.

3. Paragraph [4] is amended by revising the last sentence of the introductory text.

4. Paragraph [8] is removed and reserved

5. Paragraph [10] is amended after "Appendix A" by adding "of this part"; revising "activity" to read "CA"; and by revising "This" to read "There"

6. Paragraph [12] is amended by revising "update" to read "updates" and by removing the word "listings"; paragraph [12]B is amended in the parenthetical phrase by revising "[16]" to read "[15]".

Appendix D to Part 169a—[Amended]

* * * * *

Section One

* * * * *

All entries in this section of the CCR shall be submitted by DoD Components on the first quarter update after approving the start of a cost comparison.

* * * * *

[2] Announcement and/or approval date. Date Congress is notified when required by 10 U.S.C. 2461, of this part or date DoD Component approves studies being performed by 45 or fewer DoD civilian employees.

[3] * * *

D—Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) [3D1]

* * * * *

K—Defense Information Systems Agency (DISA)

* * * * *

Y—U.S. Army Corps of Engineers (USACE) Civil Works

2—Defense Finance & Accounting Service (DFAS)

3—Defense Commissary Agency (DeCA)

* * * * *

[4] * * * If the DoD Component chooses to submit the look-up table or diskette or tape, the format should be as follows: * * *

[5] Installation code. The code established by the DoD Component headquarters to identify the installation where the CA(s) under cost comparison is and/or are located physically. Two or more codes (for cost comparison packages encompassing more than one installation) should be separated by commas. A separate look-up listing or file shall be provided to the DMDC showing each unique installation code and its corresponding installation name. Also submission of the installation name in each record is allowed. If the DoD Component chooses to submit the look-up listing on diskette or tape, the format shall be as follows:

Column	Entry
1–10 (left justify)	Installation code.
11	Blank.
12–80 (left justify)	Installation code.

The DMDC shall generate the installation name corresponding to the installation code submitted by the DoD Component, and display it with the code on the CAMIS.

[6] State code. A two-position numeric code for the State (Data element reference ST–GA.) or U.S. Territory (FIPS 55–2), as shown in attachment 1 to appendix B to this part, where element [5] is located. Two or more codes shall be separated by commas.

* * * * *

[13] Announcement—personnel estimate civilian, and [14] announcement—personnel estimate military. The number of civilian and military personnel allocated to the CAs undergoing cost comparison when the cost comparison is approved by the DoD Component or announced to Congress. This number in all cases shall be those personnel figures identified in the correspondence announcing the start of a cost comparison and will include authorized positions, temporaries, and borrowed labor. The number is used to give a preliminary estimate of the size of the activity.

[15] Revised and/or original cost comparison number. When a consolidation occurs, create a new CCR containing the attributes of the consolidated cost comparison. In the CCR of each cost comparison being consolidated, enter the cost comparison number of the new CCR in this data element and code "Z" in data element [12] of this attachment. In the new CCR, this data element should be blank and data element [12] of this attachment should denote the current status of the cost comparison. Once the consolidation has occurred, only the new CCR requires future updates. When a single cost comparison is being broken into multiple cost comparisons, create a new CCR for each cost comparison broken out from the original cost comparison. Each new CCR shall contain its own unique set of attributes; in data element [15] of this attachment enter the cost comparison number of the original cost comparison from which each was derived, and in data element [12] of this attachment enter the current status of each cost comparison. For the original cost comparison, data element [15] of this attachment, should be blank and data element [12] of this attachment should have a code "B" entry. Only the derivative record entries require future updates. When a consolidation or a breakout occurs, an explanatory remark shall be entered in data element [57] of this attachment (such as, "part of SW region cost comparison," or, "separated into three cost comparisons").

c. Section Two is amended as follows:

(1) The introductory text is amended by revising "manpower" to read "personnel"

(2) Section [17] is removed and reserved

(3) Sections [19]B and [19]C are revised to read:

"B—Small Business Administration 8(a) Set Aside"

"C—"Javits-Wagner-O'Day Act" (JWOD)"

(4) Section [20] is amended by revising "[14] and [15]" to read "[13] and [14]"

(5) Section [22] is amended in the heading after the word "Baseline" both times it appears add "Annual"

d. Section Three is amended by revising section [24], adding section [24A], and removing and reserving sections [26] and [27].

* * * * *

[24] Scheduled Initial Decision Date. Date the initial decision is scheduled at the start of a cost comparison.

[24A] Actual Initial Decision Date. Date the initial decision is announced. The initial decision is based on the apparent low bid or offer and is subject to preaward surveys and resolution of all appeals and protests. In a sealed bid procurement, the initial decision is announced at bid opening. In a negotiated procurement, the initial decision is announced when the cost comparison is made between the in-house estimate and the proposal of the selected offeror.

* * * * *

e. Section Four is amended as follows:

1. The introductory text is amended by revising "form" to read "record".

2. Section [28] is amended by revising "formal advertised" to read "sealed bid"

3. Section [30] is amended by removing "either" and adding a new entry "O" to read: "O—Other"

4. Section [31] is removed and reserved.

5. Section [31a] is amended by adding a period at the end of the heading and adding the phrase "Enter one of the following" after the heading.

6. Section [32] is amended by revising the second sentence to read as follows: "* * * Do not include the minimum cost differential (line 14 in CCF or line 16 in the ENCR CCF) in the computation of any of these data elements.* * *

7. Section [35] is amended by revising the last sentence to read:

"This is the total of line 6 of the new CCF or line 8 of the ENCR CCF. An entry is required although the activity remains in-house due to absence of a satisfactory commercial source."

8. Section [36] is amended by revising the last sentence to read: "This is the total of line 13 of the CCF or line 15 of the ENCR CCF."

9. Section [37] is revised to read: "Scheduled Contract or MEO Start Date. Date the contract and/or MEO was scheduled to start at the beginning of a cost comparison."

f. Section Five is revised to read as follows:

Section Five

Event: The Contract/MEO Starts

The entries in this section identify the contract or MEO start date and the personnel actions taken as a result of the cost comparison.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the start of the contract:

[38] Contract/MEO Start Date. The actual date the contractor began operation of the contract or the Government implements the MEO.

[39] Permanent Employees Reassigned to Equivalent Positions. The number of permanent employees who were reassigned to positions of equivalent grade as of the contract start date.

[40] Permanent Employee Changed To Lower Positions. The number of permanent employees who were reassigned to lower grade positions as of the contract start date.

[41] Employees Taking Early Retirement. The number of employees who took early retirement as of the contract start date.

[42] Employees Taking Normal Retirement. The number of employees who took normal retirement as of the contract start date.

[43] Permanent Employees Separated. The number of permanent employees who were separated from Federal employment as of the contract start date.

[44] Temporary Employees Separated. The number of temporary employees who were separated from Federal employment as of the contract start date.

[45] Employees Entitled To Severance Pay. The estimated number of employees entitled to severance pay on their separation from Federal employment as of the contract start date.

[46] Total Amount of Severance Entitlements ($000). The total estimated amount of severance to be paid to all employees, in thousands of dollars, rounded to the nearest thousand, as of the contract start date.

[47] Number Of Employees Hired by The Contractor. The number of estimated DoD civilian employees (full-time or otherwise) that will be hired by the contractors, or their subcontractors, at the contract start date.

Administrative Appeal

[48] Filed. Were administrative appeals filed?
N—No
Y—Yes

[49] Source. Who filed the appeal?
B—Both
C—Contractor
I—In-house

[50] Result. Were the appeals finally upheld? (If both appealed, explain result in data element [57], of this section).
N—No
P—Still in progress
Y—Yes

GAO Protest

[51] Filed. Was a protest filed with GAO?
N—No
Y—Yes

[52] Source. Who filed the protest?
B—Both
C—Contractor
I—In-house

[53] Result. Was the protest finally upheld? (Explain result in data element [57], below).
N—No
P—Still in progress
Y—Yes

Arbitration

[54] Requested. Was there a request for arbitration?
N—No
Y—Yes

[55] Result. Was the case found arbitrable? (Explain result in data element [57], below).
N—No
P—Still in progress
Y—Yes

General Information

+[56] Total Staff-Hours Expended. Enter the estimated number of staff-hours expended by the installation for the cost comparison. Include direct and indirect hours expended from the time of PWS until a final decision is made.

+[56a] Estimated Cost Of Conducting The Cost Comparison. Enter the estimated cost of the total staff-hours identified in data element [56] of this section non-labor (travel, reproduction costs, etc.) associated with the cost comparision.

+Data elements [56] and [56A] will only be completed by DoD Components that are participating in the pilot test of these data elements.

[57] DoD Component Comments. Enter comments, as required, to explain situations that affect the conduct of the cost comparision. Where appropriate, precede each comment with the CAMIS data element being referenced.

[58] Effective Date. "As of" date of the most current update for the cost comparison. This data element will be completed by the DMDC.

[59] (Leave blank, for DoD computer program use).

g. Section Six is revised to read as follows:

Section Six

Event: Quarter Following Contract and/or Option Renewal

The entries in this section identify original costs, savings, information on subsequent performance periods and miscellaneous contract data. The DoD Component shall enter the following data elements in the first quarterly update annually.

[60] Original Cost of Function(s) ($000). The estimated total cost of functions before to development of an MEO in thousands of dollars, rounded to the nearest thousand for the base year and option years. (Begin entry when study began for data element [2] after 1 October 1989).

[60A] Estimated Dollar Savings ($000). The DoD Component's estimated savings from the cost comparison for the base year plus option years, in thousands of dollars, rounded to the nearest thousand, for either in-house or contract performance. Documentation will be available at the DoD Component level. (Begin entry after 1 October 1989).

[61] Contract Or In-House Bid First Performance Period ($000). For studies resulting in continued in-house performance, enter the total in-house cost (Line 6 from the CCF) for the first performance period. For studies resulting in conversion to contract performance, enter the contract price (Line 7 from the CCF) for the first performance period. Figures shall be shown in thousands of dollars, rounded to the nearest thousand.

[61A] Actual Contract or In-House Costs First Performance Period ($000). Enter the actual first performance period contract cost including all change orders (Plus changes in the scope of work) or actual in-house performance cost including changes in the scope of work, in thousands of dollars, rounded to the nearest thousand. No entry is required for actual in-house performance during the second and third performance periods.

[61B] Adjusted Contract Costs First Performance Period ($000). Enter an adjusted first performance period contract cost that includes actual DoL wage increases and costs for omissions and/or errors in the original PWS, but exclude new requirement costs and their associated wage increases, in thousands of dollars, rounded to the nearest thousand. (Begin entry after 1 October 1989).

[61C] Adjusted In-House Costs First Performance Period ($000). Enter the total first performance period in-house cost of the MEO, including civil service pay increases, but excluding increases associated with new mission requirements not included in the original scope of work of the function. Show costs in thousands of dollars, rounded to the nearest thousand. Entry is required even if the function went to contract. (Begin entry after 1 October 1989).

[62] Contract Or In-House Bid Second Performance Period ($000). For studies resulting in continued in-house performance, enter the total in-house cost (Line 6 from the CCF) for the second performance period. For studies resulting in conversion to contract performance, enter the contract price (Line 7 from the CCF) for the second performance period. Figures shall be shown in thousands of dollars, rounded to the nearest thousand.

[62A] Actual Contract Costs Second Performance Period ($000). Enter the actual second performance period contract cost including all change orders (Plus changes in the scope of work), in thousands of dollars, rounded to the nearest thousand. No entry is required when the function remained in-house.

[62B] Adjusted Contract Costs Second Performance Period ($000). Enter an adjusted second performance period contract cost that includes actual DoL wage increases and costs for omissions and/or errors in the original PWS, but exclude new requirement costs and their associated wage increases, in thousands of dollars, rounded to the nearest thousand. (Begin entry after 1 October 1989).

[62] Adjusted In-House Costs Second Performance Period ($000). Enter the total second performance period in-house cost of the MEO, including civil service pay

increases, but excluding increases associated with new mission requirements not included in the original scope of work of the function. Show costs in thousands of dollars, rounded to the nearest thousand. Entry is required even if the function went to contract. (Begin entry after 1 October 1989).

[63] Contract Or In-house Bid Third Performance Period ($000). For studies resulting in continued in-house performance, enter the total in-house cost (Line 6 from the CCF) for the third performance period. For studies resulting in conversion to contract performance, enter the contract price (Line 7 from the CCF) for the third performance period. Figures shall be shown in thousands of dollars, rounded to the nearest thousand.

[63A] Actual Contract Costs Third Performance Period ($000). Enter the actual third performance period contract cost including all change orders (Plus changes in the scope of work), in thousands of dollars, rounded to the nearest thousand. No entry is required when the function remained in-house.

[63B] Adjusted Contract Costs Third Performance Period ($000). Enter an adjusted third performance period contract cost that includes actual DoL wage increases and costs for omissions and/or errors in the original PWS, but exclude new requirement costs and their associated wage increases, in thousands of dollars, rounded to the nearest thousand (Begin entry after 1 October 1989).

[63C] Adjusted In-House Costs Third Performance Period ($000). Enter the total third performance period in-house cost of the MEO, including civil service pay increases, but excluding increases associated with new mission requirements not included in the original scope of work of the function. Show costs in thousands of dollars, rounded to the nearest thousand. Entry is required even if the function went to contract (Begin entry after 1 October 1989).

[64] Contractor Change. Enter one of the following alpha designators to indicate whether the contract for the second or third performance period has changed from the original contractor.

N—No, the contractor has not changed.

Y—Yes, the contractor has changed.

Data elements [65] through [66] of this section are not required if the answer to [64] of this section is no (N).

[65] New Contractor Size (If data element [66] of this section contains the alpha designator "T" or "R," no entry is required).

L—New contractor is large business.

S—New contractor is small and/or small disadvantaged business.

[66] Reason For Change. DoD Components shall enter one of the following designators listed in this section, followed by the last two digits of the fiscal year which the change occurred.

C—Contract workload consolidated with other existing contract workload.

D—New contractor takes over because original contractor defaults.

I—Returned in-house because original contractor defaults within 12 months of start date and in-house bid is the next lowest.

N—New contractor replaced original contractor because Government opted not to renew contract in option years.

R—Returned in-house temporarily pending resolicitation due to contract default, etc.

U—Contract workload consolidated into a larger (umbrella) cost comparison.

X—Other-function either returned in-house or eliminated because of base closure, realignment, budget reduction or other change in requirements.

[67] Contract Administration Staffing. The actual number of contract administration personnel hired to administer the contract.

22. Part II is revised and the undesignated center heading preceding it is republished to read as follows:

Camis Entry and Update Instruction

Part II—Direct Conversions and Simplified Cost Comparisons

The bracketed number preceding each definition in sections One through six of this section, is the DoD data element number. All date fields should be in the format YYMMDD (Data element reference DA–FA).

Section One

Event: DoD Component Approves the CA Action

All entries in this section of the DCSCCR record shall be submitted by DoD Components on the first quarter update after approving the start of a cost comparison. These entries shall be used to establish the DCSCCR and to identify the geographical, organizational, political, and functional attributes of the activity (or activities) undergoing conversion and/or comparison as well as to provide an initial estimate of the manpower associated with the activity (or activities). The initial estimate of the personnel in this section of the DCSCCR will be, in all cases, those personnel figures identified in the correspondence approving the start of the conversion and/or comparison. DoD Components shall enter the following data elements to establish a DCSCCR:

[1] Direct Conversion/Simplified Cost Comparison Number. The number assigned by the DoD Component to uniquely identify a specific conversion and/or comparison. The first character of the conversion and/or comparison number must be a letter designating the DoD Component as noted in data element [3] of this section. The conversion and/or comparison number may vary in length from five to ten characters, of which the second and subsequent may be alpha or numeric and assigned under any system desired by the DoD Component.

[2] Approval Date. The date has simplified cost comparison or direct conversion was approved.

[3] DoD Component Code. Use the following codes to identify the Military Service or Defense Agency and/or Field Activity conducting the cost comparison:

A—Department of the Army

B—Defense Mapping Agency (DMA)

D—Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) [3D1]

D—Washington Headquarters Service (WHS) [3D2]

F—Department of the Air Force

C—National Security Agency/Central Security Service (NSA/CSS)

H—Defense Nuclear Agency (DNA)

J—Joint Chiefs of Staff (JCS) (including the Joint Staff, Unified and Specified Commands, and Joint Service Schools)

K—Defense Information Systems Agency (DISA)

L—Defense Intelligence Agency (DIA)

M—United States Marine Corps (USMC)

N—United States Navy (USN)

R—Defense Contract Audit Agency (DCAA)

S—Defense Logistics Agency (DLA)

T—Defense Security Assistance Agency (DSAA)

V—Defense Investigative Service (DIS)

W—Uniformed Services University of the Health Sciences (USUHS)

Y—U.S. Army Corps of Engineers (USACE) Civil Works

2—Defense Finance & Accounting Service (DFAS)

3—Defense Commissary Agency (DeCA)

[4] Command Code. The code established by the DoD Component headquarters to identify the command responsible for operating the CA undergoing conversion and/or comparison. A separate look-up listing or file shall be provided to the DMDC showing each unique command code and its corresponding command name. If the DoD Component chooses to submit the look-up table on diskette or tape, the format should be as follows:

Column	Entry
1–6 (left justify)	Command code.
7	Blank.
8–80 (left justify)	Command code.

[5] Installation Code. The code established by the DoD Component headquarters to identify the installation where the CA(s) under conversion and/or comparison is and/or are located physically. Two or more codes (for conversion and/or comparison packages encompassing more than one installation) should be separated by commas. A separate look-up listing or file shall be provided to the DMDC showing each unique installation code and its corresponding installation name. Also submission of the installation name in each record is allowed. It the DoD Component chooses to submit the look-up listing on diskette or tape, the format shall be as follows:

Column	Entry
1–10 (left justify)	Installation code.
11	Blank.
12–80 (left justify)	Installation name.

The DMDC shall generate the installation name corresponding to the installation code submitted by the DoD Component, and display it with the code on the CAMIS.

[6] State Code. A two-position numeric code for the State (Data element reference ST–GA.) or U.S. Territory (FIPS 55–2), as shown in attachment 1 to Appendix B of this part, where element [5] is located. Two or more codes shall be separated by commas.

[7] Congressional District (CD). Number of the CDs where [5] of this section, is located. If representatives are elected "at large," enter "01" in this data element; for a delegate or resident commissioner (i.e., District of Columbia or Puerto Rico) enter "98." If the installation is located in two or more CDs, all CDs should be entered and separated by commas.

[8] (Leave blank)

[9] Title of Conversion and/or Comparison. The title that describes the CA(s) under conversion/comparison (for instance, "Facilities Engineering Package", "Installation Bus Service," or "Motor Pool"). Use a clear title, not acronyms or function codes in this data element.

[10] DoD Functional Area Code(s). The four- or five-alpha and/or numeric character designators listed in Appendix A of this part that describes the type of CA undergoing conversion and/or comparison. This would be one code for a single CA or possibly several codes for a large cost comparison package. A series of codes shall be separated by commas.

[11] Prior Operation Code. A single alpha character that identifies the mode of operation for the activity at the time the conversion and/or comparison is started. Despite the outcome of the conversion and/or comparison, this code does not change. The coding is as follows:

C—Contract
E—Expansion
I—In-house
N—New requirement

[12] Conversion and/or Comparison Status Code. A single alpha character that identifies the current status of the conversion and/or comparison. Enter one of the following codes:

B—Broken out. The cost comparison package has been broken into two or more separate cost comparisons. The previous DCSCCR shall be excluded from future updates. (See data element [15] of this section.)
C—Complete
P—In progress
X—Canceled. The DCSCCR shall be excluded from future updates.
Z—Consolidated. The cost comparison has been consolidated with one or more other cost comparisons into a single cost comparison package. The DCSCCR for the cost comparison that has been consolidated shall be excluded from future updates. (See data element [15] of this section.)

[13] Announcement—personnel estimate civilian, and [14] announcement—personnel estimate military. The number of civilian and military personnel allocated to the CAs undergoing conversion and/or comparison at the time the start of the conversion and/or comparison is approved. This number is all cases shall be those personnel figures identified when the conversion and/or comparison was approved and will include authorized positions, temporaries, and borrowed labor. The number is used to give a preliminary estimate of the size of the activity.

[15] Revised and/or original cost comparison number. When a consolidation occurs, create a new DCSCCR containing the attributes of the consolidated conversion and/or comparison. In the DCSCCR of each conversion and/or comparison being consolidated, enter the conversion and/or comparison number of the new DCSCCR in this data element and code "Z" in data element [12] of this section. In the new DCSCCR, this data element should be blank and data element [12] of this section should denote the current status of the conversion and/or comparison. Once the consolidation has occurred, only the new DCSCCR requires future updates.

When a single conversion and/or comparison is being broken into multiple conversion and/or comparisons, create a new DCSCCR for each conversion and/or comparison broken out from the original conversion and/or comparison. Each new DCSCCR shall contain its own unique set of attributes; in data element [15] of this section enter the conversion and/or comparison number of the original conversion and/or comparison from which each was derived, and in data element [12] of this section enter the current status of each conversion and/or comparison. For the original conversion and/or comparison, data element [15] of this section should be blank and data element [12] of this section should have a code "B" entry. Only the derivative record entries require future updates.

When a consolidation or a breakout occurs, an explanatory remark shall be entered in data element [56] of this section (such as, "part of SW region cost comparison," or, "separated into three cost comparisons").

[16] (Leave blank)

Section Two

Event: The Solicitation is Issued

The entries in this section of the DCSCCR provide information on the personnel authorized to perform the workload in the PWS, the number of workyears used to accomplish the workload in the PWS, and the type and kind of solicitation.

The DoD Component shall enter the following data elements at the first quarterly update subsequent to the issuance of the solicitation:

[17] (Leave blank)

[18] Solicitation-Type code. A one-character alpha designator that identifies the type of solicitation used to obtain contract bids or offers. Use either the CBD as the source document or information received from the contracting officer for this entry. Solicitations under Section 8(a) of "The Small Business Act" are negotiated. Enter one of the following codes:

N—Negotiated
S—Sealed Bid

[19] Solicitation-Kind code. A one-character (or two-character, if "W" suffix is used) alpha designator indicating whether the competition for the contract has been limited to a specific class of bidders or offerors. Use either the CBD as the source document or information received from the contracting officer to enter one of the following codes:

A—Restrict to small business
B—Small Business Administration 8(a) Set Aside
C—"Javits-Wagner-O'Day Act" (JWOD)
D—Other mandatory sources
U—Unrestricted
W—(Optional suffix) Unrestricted after initial restriction

[20] Current Authorized Civilians, and [21] Current Authorized Military. The number of civilian and military authorizations allocated on the DoD Component's manpower documents to perform the work described in the PWS. This number refines the initial authorization estimate (Section One, data elements [13] and [14] of this section).

[22] Baseline Annual Workyears Civilian, and [23] Baseline Annual Workyears Military. The number of annual workyears it has taken to perform the work described by the PWS before the DoD Component conducts the MEO analysis of the in-house organization. Do not include contract monitor requirements. Military workyears include assigned, borrowed, diverted, and detailed personnel. Less than one-half a year of effort should be rounded down, and one-half a year or more should be rounded up. These workyear figures shall be the baseline for determining the personnel savings identified by the most efficient organization analysis.

Section Three

Event: The In-House And The Contractor Costs Of Operations Are Compared

The entries in this section provide information on the date of the conversion and/or comparison (initial decision), the preliminary results, the number of bids or offers received, and the costing method used in the conversion and/or comparison.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the date of the comparison of in-house and contractor costs (date of initial decision):

[24] Scheduled Initial Decision Date. Date the initial decision is scheduled at the start of a conversion and/or comparison

[24A] Actual Initial Decision Date. Date the initial decision is announced. The initial decision is based on the apparent low bid or offer and is subject to preaward surveys and resolution of all appeals and protests. In a sealed bid procurement, the initial decision is announced at bid opening. In a negotiated procurement, the initial decision is announced when the cost comparison is made between the in-house estimate and the proposal of the selected offeror. In a conversion, the initial decision is announced when the in-house cost estimate is evaluated against proposed contractor proposals.

[25] Cost Comparison Preliminary Results Code. A one-character alpha designator indicating the results of the cost comparison as announced by the contracting officer at the time of the comparison (No entry required for a direct conversion). The entries are limited to two possibilities:

C—Contract
I—In-house

[26] (Leave blank)
[27] (Leave blank)

Section Four

Event: The Contracting Officer Either Awards The Contract or Cancels The Solicitation

The entries in this section identify the final result, information on the contract, the in-house bid, and costing information from the direct conversion and/or simplified cost comparison fact sheet.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the date the contracting officer either awards a contract or cancels the solicitation:

[28] Contract Award or Solicitation Cancellation Date. For conversions to contract, this is the date a contract was awarded in a sealed bid solicitation or the date the contractor was authorized to proceed on a conditional award contract in a negotiated solicitation. For retentions in-house, this is the date the solicitation was canceled (when the contracting officer publishes an amendment to cancel the solicitation).

[29] Cost Comparison Final Result Code. A one-character alpha designator identifying the final result of the comparison between in-house and contractor costs; the contracting officer either awards the contract or cancels the solicitation. Enter one of the following codes:

C—Contract
I—In-house

[30] Decision Rationale Code. A one-character alpha designator that identifies the rationale for awarding a contract or canceling the solicitation. The work shall be performed in-house or by contractor based on cost, for other than cost, or the work shall be performed in-house because no satisfactory commercial source was available (no bids or offers were received or the pre-award survey resulted in the determination that no commercial sources were responsive or responsible). Enter one of the following codes:

C—Cost
N—No satisfactory commercial source
O—Other

[31] (Leave blank)

[31A] Prime Contractor Size. Enter one of the following:

L—Large business
S—Small or small and/or disadvantaged business

[32] MEO Workyears. The number of annual workyears it takes to perform the work described in the PWS after the MEO analysis has been conducted. This entry will be equal to the number of annual workyears in the in-house bid (No entry required for a direct conversion).

For data elements [33] through [36] of this section enter all data after all adjustments required by appeal board decisions. Do not include minimum cost differential in the computation of any of these data elements. If a valid conversion and/or comparison was not conducted (i.e., all bidders or offerors disqualified, no bids or offers received, etc.) do not complete data elements [33], [34] and [36] of this section. Explain lack of valid cost data in data element [56], "DoD Component Comments" of this section.

[33] First Performance Period. Expressed in months, the length of time covered by the contract. Do not include any option periods.

[34] Conversion and/or Comparison Period. Expressed in months, the total period of operation covered by the conversion or cost comparison; this is the period used as the basis for data elements [35] and [36] of this section.

[35] Total In-House Cost ($000). Enter the total estimated cost of in-house performance for the base year plus option years, in thousands of dollars, rounded to the nearest thousand. An entry is required although the activity remains in-house due to absence of a satisfactory commercial source (No entry required for a direct conversion).

[36] Total Contract Cost ($000). Enter the total estimated cost of contract performance for the base year plus option years, in thousands of dollars, rounded to the nearest thousand.

[37] Scheduled Contract or MEO Start Date. Date the contract and/or MEO was scheduled to start at the beginning of a conversion and/or comparison.

Section Five

Event: The Contract MEO Starts.

The entries in this section identify the contract or MEO start date and the personnel actions taken as a result of the conversion and/or comparison.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the start of the contract:

[38] Contract and/or MEO Start Date. The actual date the contractor began operation of the contract or the Government implements the MEO.

[39] Permanent Employees Reassigned to Equivalent Positions. The number of permanent employees who were reassigned to positions of equivalent grade as of the contract start date.

[40] Permanent Employees Changed to Lower Positions. The number of permanent employees who were reassigned to lower grade positions as of the contract start date.

[41] Employees Taking Early Retirement. The number of employees who took early retirement as of the contract start date.

[42] Employees Taking Normal Retirement. The number of employees who took normal retirement as of the contract start date.

[43] Permanent Employees Separated. The number of permanent employees who were separated from Federal employment as of the contract start date.

[44] Temporary Employees Separated. The number of temporary employees who were separated from Federal employment as of the contract start date.

[45] Employees Entitled to Severance Pay. The estimated number of employees entitled to severance pay on their separation from Federal employment as of the contract start date.

[46] Total Amount of Severance Entitlements ($000). The total estimated amount of severance to be paid to all employees, in thousands of dollars, rounded to the nearest thousand, as of the contract start date.

[47] Number of Employees Hired by the Contractor. The number of estimated DoD civilian employees (full-time or otherwise) that will be hired by the contractors, or their subcontractors, at the contract start date.

Administrative Appeal

[48] Filed. Were administrative appeals filed?

N—No
Y—Yes

[49] Source. Who filed the appeal?

B—Both
C—Contractor
I—In-House

[50] Result. Were the appeals finally upheld? (if both appealed, explain result in data element [56] of this section).

N—No
P—Still in Progress
Y—Yes

GAO Protest

[51] Filed. Was a protest filed with GAO?

N—No
Y—Yes

[52] Source. Who filed the protest?

B—Both
C—Contractor
I—In-House

[53] Result. Was the protest finally upheld? (explain result in data element [56], of this section).

N—No
P—Still in Progress
Y—Yes

Arbitration

[54] Requested. Was there a request for arbitration?

N—No
Y—Yes

[55] Result. Was the case found arbitrable? (explain result in data element [56], of this section).

N—No
P—Still in Progress
Y—Yes

General Information

[56] DoD Component Comments. Enter comments, as required, to explain situations that affect the conduct of the conversion and/or comparison. Where appropriate, precede each comment with the CAMIS data element being referenced.

[57] Effective Date. "As of" date of the most current update for the conversion and/or comparison. This data element will be completed by the DMDC.

[58] (Leave blank, for DoD computer program use).

Section Six

Event: Quarter Following Contract and/or Option Renewal

The entries in this section identify information on subsequent performance periods and miscellaneous contract data. The DoD Component shall enter the following data elements in the first quarterly update annually:

[59] Actual Contract Cost First Performance Period ($000). Enter the actual contractor cost for the first performance

period, in thousands of dollars, rounded to the nearest thousand.

[60] Actual Contract Cost Second Performance Period ($000). Enter the actual contractor cost for the second performance period, in thousands of dollars, rounded to the nearest thousand.

[61] Actual Contract Cost Third Performance Period ($000). Enter the actual contractor cost for the third performance period, in thousands of dollars, rounded to the nearest thousand.

[62] Contractor Change. Enter one of the following alpha designators to indicate whether the contractor for the second or third performance period has changed from the original contractor.

N—No, the contractor has not changed
Y—Yes, the contractor has changed

Data elements [63] through [64] of this section are not required if the answer to [62] of this section is no (N).

[63] New Contractor Size. (If data element [64] of this section contains the alpha designator "I" or "R," no entry is required)

L—New contractor is large business
S—New contractor is small and/or small disadvantaged business.

[64] Reason For Change. DoD Components shall enter one of the following designators listed in the following, followed by the last two digits of the FY in which the change occurred.

C—Contract workload consolidated with other existing contract workload.
D—New contractor takes over because original contractor defaults.
I—Returned in-house because of original contractor defaults; etc., within 6 months of start date and in-house bid is the next lowest.
N—New contractor replaced original contractor because Government opted not to renew contract in option years.
R—Returned in-house temporarily pending resolicitation due to contract default, etc.
U—Contract workload consolidated with other existing contract workload.
X—Other-Function either returned in-house or eliminated because of base closure, realignment, budget reduction or other change in requirements.

[65] Contract Administration Staffing. The actual number of contract administration personnel hired to administer the contract.

Appendix E—[Removed]

22. Appendix E to part 169a is removed.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-15514 Filed 6-30-92; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 81

[CDG 92-038]

Amendment to International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: On March 19, 1991, the President proclaimed the 1989 amendment to the Regulations of the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), which entered into force for the United States of America on April 19, 1991. This rule publishes the President's Proclamation and revises the text of the 72 COLREGS to include the 1989 amendment.

EFFECTIVE DATE: April 19, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Epstein, Office of Navigation Safety and Waterway Services, (G-NSR-3), 2100 2nd Street, SW., Washington, DC 20593-0001. Telephone (202) 267-0352 or (202) 267-0357.

SUPPLEMENTARY INFORMATION: The Convention on the International Regulations for Preventing Collisions at Sea, 1972, (72 COLREGS) entered into force for the United States of America on July 15, 1977, and was amended in November 1981, November 1987 and October 1989. The 72 COLREGS, and the 1981 and 1987 amendments were proclaimed by the President and were published in the **Federal Register**, (42 FR 17112, March 31, 1977, 48 FR 28634, June 23, 1983, and 54 FR 38851, September 21, 1989). On October 19, 1989, the Assembly of the International Maritime Organization (IMO) adopted one additional amendment to the 72 COLREGS which entered into force April 19, 1991.

Section 1602 of title 33 United States Code provides that amendments to the International Regulations for Preventing Collisions at Sea be proclaimed by the President and that the Proclamation with the annexed international regulations amendments be published in the **Federal Register**. This rule, therefore, publishes the President's March 19, 1991, Proclamation and the 1989 amendment to the 72 COLREGS.

Discussion of the Amendment

This amendment modifies the language of rule 10(d) that governs the conduct of vessels in an inshore traffic separation scheme adopted by the International Maritime Organization. The amendment was designed to remove the ambiguity inherent in the words "normal" and "through traffic" as used in the existing text. This ambiguity lent itself to different interpretations by coastal states anxious to limit traffic in inshore traffic zones in order to reduce the risk of pollution from a collision or grounding. The new language for rule 10(d) is phrased so that the mariner should have a better understanding of his or her duties and obligations with regard to the use of inshore traffic zones by ships.

In many areas traffic separation schemes have been set up to regulate the flow of "deep draft" traffic. Sometimes, in addition, inshore traffic zones are set up for smaller vessels (less than 20 meters in length), and coastwise traffic. Basically the new language prohibits the larger vessels from using the inshore traffic zones except when en route to or from a destination within the inshore traffic zone, or to avoid immediate danger. The intent of the change is to keep the "deep draft" traffic in the appropriate traffic separation schemes, unless it must transit through the inshore traffic zone to reach its destination (i.e. a port, offshore platform, pilot station, etc.). It should be noted that the United States does not currently have any inshore traffic zones in its routing measures.

Consistent with section 5 of the Inland Navigation Rules Act of 1980 this proposed amendment was considered by the Rules of the Road Advisory Council which gave its concurrence.

Since this revision is concerned with a foreign affairs function of the United States, it is excepted from the rulemaking requirements under 5 U.S.C. 553 and may be published without notice and opportunity for public comment.

Drafting Information

The principal persons involved in drafting this document are Jonathan Epstein, Project Manager, Office of Navigation Safety and Waterway Services, and Christena Green, Project Counsel, Office of Chief Counsel.

List of Subjects in 33 CFR Part 81

Navigable waters, Navigation.

In consideration of the foregoing, the President's Proclamation of March 19,

1991 and the 1989 amendment are set forth below.

A. Cattalini,

Acting Chief, Office of Navigation Safety and Waterway Services.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A Proclamation

Considering That:

The Amendment to the Regulations of the Convention on the International Regulations for Preventing Collisions at Sea, 1972, was adopted in accordance with paragraph 3 of article VI of the Convention by the Assembly of the International Maritime Organization at London on October 19, 1989, a certified copy of which Amendment in the English and French languages, is hereto annexed /1/;

The President of the United States of America transmitted the Amendment to the Congress of the United States of America on April 2, 1990, consistent with section 3(d) of the International Navigational Rules Act of 1977 (91 Stat. 308; 33 USC 1602);

The United States of America did not notify the International Maritime Organization of an objection to the Amendment;

In the absence of an objection, the Amendment will enter into force for the United States of America on April 19, 1991, in accordance with article VI of the Convention and Resolution A.678(16) of the Assembly, adopted on October 19, 1989;

Now, therefore, I, George Bush, President of the United States of America, by authority vested in me by the Constitution and the laws of the United States of America, including the International Navigational Rules Act of 1977, proclaim and make public the Amendment, to the end that it shall be observed and fulfilled with good faith on and after April 19, 1991, by the United States of America and all other persons subject to the jurisdiction thereof.

In testimony whereof, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

Done at the city of Washington this nineteenth day of March in the year of our Lord one thousand nine hundred ninety-one and of the Independence of the United States of America the two hundred fifteenth.

By the President:

George Bush.

James A. Baker III,

Secretary of State.

Resolution A.678(16) adopted on 19 October 1989 Amendment to the International Regulations for Preventing Collisions at Sea, 1972

The Assembly, recalling article VI of the Convention on the International Regulations for Preventing Collisions at Sea, 1972, on amendments to the Regulations,

Having Considered the amendment to the International Regulations for Preventing Collisions at Sea, 1972, adopted by the Maritime Safety Committee at its fifty-seventh session and communicated to all Contracting Parties in accordance with paragraph 2 of article VI of that Convention and also the recommendations of the Maritime Safety Committee concerning entry into force of this amendment,

1. *Adopts,* in accordance with paragraph 3 of article VI of the Convention, the amendment set out in the Annex to the present resolution;

2. *Decides,* in accordance with paragraph 4 of article VI of the Convention, that the amendment shall enter into force on 19 April 1991 unless by 19 April 1990 more than one third of the Contracting Parties have notified their objection to the amendment;

3. *Requests* the Secretary-General, in conformity with paragraph 3 of article VI, to communicate this resolution to all Contracting Parties to the Convention for acceptance, together with copies to all Members of the Organization;

4. *Invites* Contracting Parties to submit any objections to the amendment not later than 19 April 1990, whereafter the amendment will be deemed to have entered into force as determined in the present resolution.

Annex—Amendment to the International Regulations for Preventing Collisions at Sea, 1972

Rule 10—Traffic separation schemes

The existing text of paragraph (d) is replaced by the following:

"(d)(i) A vessel shall not use an inshore traffic zone when she can safely use the appropriate traffic lane within the adjacent traffic separation scheme. However, vessels of less than 20 metres in length, sailing vessels and vessels engaged in fishing may use the inshore traffic zone.

(ii) Notwithstanding subparagraph (d)(i), a vessel may use an inshore traffic zone when *en route* to or from a port, offshore installation or structure, pilot station or any other place situated within the inshore traffic zone, or to avoid immediate danger."

As set forth in the preamble, chapter I of title 33 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 81 continues to read as follows:

Authority: 33 U.S.C. 1607; E.O. No. 11964; 49 CFR 1.46.

2. Appendix A to part 81 is amended by revising the note following the appendix heading as set forth below; and by amending the International Regulations for Preventing Collisions at Sea, 1972, as set forth above in the 1989 Amendment.

PART 81—[AMENDED]

Appendix A to Part 81—72 COLREGS

Note: Below is the text of the 72 COLREGS, as published with the Proclamation of January 19, 1977, at 42 FR 17112, March 31, 1977, and subsequently amended with the Proclamation of June 16, 1983, published at 48 FR 28634, June 23, 1983; the Proclamation of June 29, 1989, published at 54 FR 38851, September 21, 1989; and the Proclamation of March 19, 1991, published at 57 FR [*insert page number and date of publication in Federal Register*].

* * * * *

[FR Doc. 92-15436 Filed 6-30-92; 8:45 am]

BILLING CODE 4910-14-M

/1/ **Editorial Note:** The French language copy of the amendments is part of the original proclamation which the Department of State will transfer to the National Archives and Records Administration as part of the U.S. Treaty series.

DEPARTMENT OF DEFENSE

Department of the Army Corp of Engineers

36 CFR Part 327

Shoreline Use Permit Conditions; Dock and Mooring Floatation Standards

AGENCY: Army Corps of Engineers, DOD.

ACTION: Final rule: Correction to 36 CFR part 327.

SUMMARY: This document amends Condition 14 of appendix C to part 327.30, Shoreline Management Regulation, by correcting density standards for floatation requiring an approved protective coating. This action is necessary because the existing standard is incorrect. This change will set floatation density standards. This correction also changes two typographical errors in the May 26, 1992 **Federal Register**, FR 21894.

EFFECTIVE DATE: July 1, 1992.

ADDRESSES: Office of the Chief of Engineers, ATTN: CECW-ON, 20 Massachusetts Avenue NW., Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. Darrell Lewis (202) 272-0247.

SUPPLEMENTARY INFORMATION: There is an error in Condition 14 of appendix C to § 327.30. Foam bead floatation which must have a protective coating has an incorrect density standard. This change is based on the results of a study of floatation materials conducted by the Corps' Waterway Experiment Station. The typographical errors are found under ACTION: 32 CFR should read 36 CFR and within Condition 14, where ASIM should read ASTM.

List of Subjects in 36 CFR Part 327

Public lands, Water resources, Natural resources, Resource management, Penalties, Recreation and recreation areas.

For the reasons set forth in the preamble, 36 CFR part 327 is amended as follows:

PART 327—[AMENDED]

1. The authority citation for part 327 continues to read as follows:

Authority: The Rivers and Harbors Act of 1894, as amended and supplemented (33 U.S.C., 1).

2. In appendix C to § 327.30, paragraph 14, is revised to read as follows:

Appendix C to § 327.30—Shoreline Use Permit Conditions

* * * * *

14. On all new docks and boat mooring buoys, floatation shall be of materials which will not become waterlogged (not over 1½ percent by volume ASTM), is resistant to damage by animals, and will not sink or contaminate the water if punctured. No metal covered or injected drum floatation will be allowed. Foam bead floatation that is not subject to deterioration through loss of beads, meets the above criteria, and has a minimum density of 1.2 lb/cu ft. is authorized. Foam bead floatation with a density of 1.0 lb/cu ft. but does not otherwise meet the above criteria is authorized provided it is encased in an approved protective coating which enables it to meet the specifications above. An approved coating is defined as warranted by the manufacturer for a period of a least eight years against cracking, peeling, sloughing and deterioration from ultra violet rays, while retaining its resiliency against ice and bumps by watercraft. Existing floatation will be authorized until it has severely deteriorated and is no longer serviceable or capable of supporting the structure, at which time it should be replaced with approved floatation.

* * * * *

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92-15482 Filed 6-30-92; 8:45 am]

BILLING CODE 3710-08-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL 4150-5]

Hazardous Waste Management System; General; Identification and Listing of Hazardous Waste; Used Oil

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: EPA is correcting errors in the hazardous waste regulations that appeared in the **Federal Register** on May 20, 1992 (57 *FR* 21524). In that **Federal Register**, EPA issued a final listing determination for used oil that is disposed and promulgated an exclusion from the definition of hazardous waste for certain used oil filters that have been drained. Today's notice corrects two typographical errors in that final rule, one in the preamble discussion and one in the regulatory language at 40 CFR 261.4(b)(15).

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: RCRA/Superfound Hotline at 800 424-9346 (toll-free) or (703) 920-9810 in the Washington, DC metropolitan area. For information on specific aspects of the used oil rulemaking, contact Ms. Rajani D. Joglekar (202) 260-3516, U.S. EPA, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

I. Corrections

On page 21533 of the May 20, 1992 final rule, there is a typographical error in the first paragraph of the section entitled B. Effect on State Authorizations in the middle column. The reference to 40 CFR 261.4(b)(13) should read 40 CFR 261.4(b)(15).

There is also a typographical error in the amended regulatory language at 40 CFR 261.4(b)(15). The text printed in the May 20 final rule reads "Non-terne plated used oil filters that are not mixed with wastes listed in Subpart C of this part . . ." The correct citation for listed wastes in Subpart D of Part 261, not Subpart C, which contains the descriptions of hazardous waste characteristics. Today's action corrects this error.

II. Rationale for Immediate Effective Date

Today's action does not create any new regulatory requirements; rather, it corrects typographical errors in the May 20, 1992 final rule on used oil. For this reason, EPA finds that good cause exists under section 3010(b)(3) of RCRA, 42 U.S.C. 9903(b)(3), to provide an immediate effective date for these minor corrections.

III. Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement for a Regulatory Impact Analysis (RIA). Due to the nature of this regulation (i.e., correction notice), the amendment is not major; therefore, no RIA is necessary.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: June 22, 1992.

Don R. Clay,

Assistant Administrator.

The following corrections are made to the regulations in FRL-530-Z-92-006; 4118-4, final rule, published in the **Federal Register** on May 20, 1992 (57 *FR* 21524).

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921 through 6927,) 6930, 6934, 6935, 6937, 6938, and 6939.

2. On page 21533 of the May 20, 1992 final rule, there is a typographical error in the first paragraph of the section entitled B. Effect on State Authorizations in the middle column. The reference to 40 CFR 261.4(b)(13) should read 40 CFR 261.4(b)(15).

3. Section 261.4, paragraph (b)(15), is revised to read as follows:

§ 261.4 Exclusions.

* * * * *

(b) * * *

(15) Non-terne plated used oil filters that are not mixed with wastes listed in Subpart D of this part if these oil filters have been gravity hot-drained using one of the following methods:

(i) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;

(ii) Hot-draining and crushing;

(iii) Dismantling and hot-draining; or

(iv) Any other equivalent hot-draining method that will remove used oil.

* * * * *

[FR Doc. 92-15430 Filed 6-30-92; 8:45 am]

BILLING CODE 6560-50-M

NUCLEAR REGULATORY COMMISSION

48 CFR Chapter 20

RIN 3150-AE29

Acquisition Regulation (NRCAR): Debarment

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is establishing the Nuclear Regulatory Commission Acquisition Regulation (NRCAR). The NRCAR is necessary to ensure that the regulations governing the procurement of goods and services within the NRC satisfy the particular needs of the

agency. The NRCAR is intended to implement and supplement the government-wide Federal Acquisition Regulation (FAR). This final rule contains only the agency's debarment, suspension, and ineligibility procedures. The NRCAR will be published as a final rule in the near future.

EFFECTIVE DATE: July 31, 1992.

FOR FURTHER INFORMATION CONTACT: Edward L. Halman, Director, Division of Contracts and Property Management, Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 492–4347.

SUPPLEMENTARY INFORMATION:

Background

Federal agencies traditionally have developed their own contracting procedures with limited attention to uniformity among agencies. The result was a system of procurement policies that varied from agency to agency, causing confusion within the contracting community. Consequently, the Office of Federal Procurement Policy, created in 1974, has worked with the agencies and the public to create a uniform procurement regulation known as the Federal Acquisition Regulation (FAR). The FAR was published in the Federal Register on September 19, 1983 (48 FR 42102) with an effective date of April 1, 1984. The FAR is codified as Chapter 1 of Title 48 of the Code of Federal Regulations.

Due to differing statutory authorities among Federal agencies, the FAR authorizes agencies to issue regulations to implement FAR policies and procedures internally and to include additional policies and procedures, solicitation provisions or contract clauses to satisfy the specific needs of the agency. NRC's debarment, suspension, and ineligibility procedures are being published to provide the agency, as soon as possible, with specific implementing guidance for applying appropriate sanctions upon discovery of contractor wrongdoing. The entire Nuclear Regulatory Commission Acquisition Regulation will be published as a final rule in the near future.

Administrative Procedure Act

Section 553 of the Administrative Procedure Act (5 U.S.C. 551 *et seq*) exempts rules relating to public contracts from the prior notice and comment procedure normally required for rulemaking. However, the Office of Federal Procurement Policy (OFPP), Office of Management and Budget, has established procedures to be used by all Federal agencies in the promulgation of procurement regulations. OFPP Policy Letter 83–2 states that an agency must provide an opportunity for public comment before adopting a procurement regulation(s) if the regulation is "significant." "Significant" is defined generally as something which has an effect beyond the internal operating procedures of the agency or has a cost or administrative impact on contractors. This regulation is issued principally to exercise delegations established by the FAR and to adopt procedures that merely supplement the debarment, suspension, and ineligibility regulations (subpart 9.406 of the FAR) and will not have additional cost or administrative impact on contractors. Therefore, NRC has determined that this rule is not significant within the meaning of OFPP Policy Letter No. 83–2.

Nonetheless, there has been an opportunity for public comment on this rule because it was part of the proposed NRCAR. The proposed NRCAR rule issued for public comment (54 FR 40420; October 2, 1989) contained the complete NRCAR regulation. At this time, we are adopting only the debarment, suspension, and ineligibility procedures from that proposed rule. Only one comment was received on this subpart. The commenter suggested that the NRCAR requirement found at 2009.405–2(a) for a certification of debarment status is inconsistent with FAR clause 52.209.5. FAR clause 52.209–5 was added to the FAR in 1989. Therefore, the NRCAR clause is no longer necessary and has been removed from the final rule.

Environmental Impact: Categorical Exclusion

The NRC had determined that this regulation is the type of action described in the categorical exclusion set forth in 10 CFR 51.22(c) (5) and (6). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1986 (44 U.S.C. 3501 *et seq*).

Regulatory Analysis

This final rule establishes the procedures and requirements necessary to implement and supplement FAR Subpart 9.4, Debarment, Suspension, and Ineligibility. This final rule constitutes an administrative action governing certain procurement activities of the NRC. This provision will not have an additional adverse economic impact on any contractor or potential contractor because it merely implements the debarment, suspension, and ineligibility regulation already mandated by FAR subpart 9.4.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. The final rule establishes the agency's debarment, suspension, and ineligibility procedures necessary to implement and supplment the FAR. Because the final rule established procedures applicable only in certain instances, these provisions do not have a significant economic impact on any contractor, including small entities.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule. Therefore, a backfit analysis is not required because the rule does not involve any provision which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 48 CFR Chapter 20

Government procurement, Nuclear Regulatory Commission Acquisition Regulations, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, 5 U.S.C. 552 and 553, and FAR subpart 1.3, the NRC is adding chapter 20 to title 48 of the Code of Federal Regulations.

1. Chapter 20 is added to title 48 to read as follows:

CHAPTER 20—NUCLEAR REGULATORY COMMISSION

PART 2009—CONTRACTOR QUALIFICATIONS

Subpart

Sec.

Sec.
2009.470 Appeals.

Authority: 42 U.S.C. 2201, sec. 201, 88 Stat. 1242; as amended 42 U.S.C. 5841; and 41 U.S.C. 418(b).

PART 2009—CONTRACTOR QUALIFICATIONS

Subpart 2009.4—Debarment, Suspension, and Ineligibility

§ 2009.403 Definitions.

As used in § 2009.4:

Debarring official means the Procurement Executive.

Initiating official means the contracting officer, the Head of the Contracting Activity (HCA), the Procurement Executive, or the Inspector General.

Suspending official means the Procurement Executive.

§ 2009.404 Consolidated list of parties excluded from Federal procurement or non-procurement programs.

The contracting officer responsible for the contract affected by the debarment or suspension shall perform the actions required by FAR 9.404(c) (1)–(3).

§ 2009.405 Effect of listing.

Compelling reasons are considered to be present where failure to contract with the debarred or suspended contractor would seriously harm the agency's programs and prevent accomplishment of mission requirements. The Procurement Executive is authorized to make the determinations under FAR 9.405. Requests for these determinations must be submitted through the HCA to the Procurement Executive.

§ 2009.405–1 Continuation of current contracts.

The HCA is authorized to make the determinations under FAR 9.405–1.

§ 2009.405–2 Restrictions on subcontracting.

The HCA is authorized to approve subcontracts with debarred or suspended subcontractors under FAR 9.405–2.

§ 2009.406 Debarment.

§ 2009.406–3 Procedures.

(a) Investigation and referral. When a contracting officer becomes aware of possible irregularities or any information which may be sufficient cause for debarment, the case must be referred through the HCA to the Procurement Executive immediately. The case must be accompanied by a complete statement of the facts (including a copy of any criminal indictments, if applicable) along with a recommendation for action. Where the statement of facts indicates the irregularities to be possible criminal offenses, or for any other reason further investigation is considered necessary, the matter must first be referred to the HCA who will consult with the Office of the Inspector General to determine if further investigation is required prior to referring to the debarring official.

(b) Decision-making process. If, after reviewing the recommendations and consulting with the Office of the General Counsel and, if appropriate, the Office of the Inspector General, the debarring official determines debarment is justified, the debarring official shall initiate the proposed debarment in accordance with FAR 9.406–3(c) and notify the HCA of the action taken. If the contractor fails to submit a timely written response within 30 days after receipt of the notice, the debarring official may notify the contractor in accordance with FAR 9.406–3(d) that the contractor is debarred.

(c) Fact-finding proceedings. For actions listed under FAR 9.406–3(b)(2), the contractor shall be given the opportunity to appear at an informal hearing. The hearing should be held at a location and time that is convenient to the parties concerned, and no later than 30 days after the contractor received the notice, if at all possible. The contractor and any specifically named affiliates may be represented by counsel or any duly authorized representative. Witnesses may be called by either party. The proceedings must be conducted expeditiously and in such a manner that each party will have an opportunity to present all information considered pertinent to the proposed debarment.

§ 2009.407 Suspension.

§ 2009.407–3 Procedures.

(a) Investigation and referral. When a contracting officer becomes aware of possible irregularities or any information which may be sufficient cause for suspension, the case must be referred through the HCA to the Procurement Executive immediately. The case must be accompanied by a complete statement of the facts along with a recommendation for action. Where the statement of facts indicates the irregularities to be possible criminal offenses, or for any other reason further investigation is considered necessary, the matter must first be referred to the HCA who will consult with the Office of the Inspector General to determine if further investigation is required prior to referring the matter to the suspending official.

(b) Decision-making process. If, after reviewing the recommendations and consulting with the Office of the General Counsel and, if appropriate, the Office of the Inspector General, the suspending official determines suspension is justified, the suspending official shall initiate the proposed suspension in accordance with FAR 9.407–3(b)(2). The contractor shall be given the opportunity to appear at an informal hearing, similar in nature to the hearing for debarments as discussed in FAR 9.406–3(b)(2). If the contractor fails to submit a timely written response within 30 days after receipt of the notice, the suspending official may notify the contractor in accordance with 9.407–3(d) that the contractor is suspended.

§ 2009.470 Appeals.

A debarred or suspended contractor may appeal the debarring/suspending official's decision by mailing or otherwise furnishing a written notice within 90 days from the date of the decision to the Executive Director for Operations. A copy of the notice of appeal must be furnished to the debarring/suspending official from whose decision the appeal is taken.

Dated at Bethesda, Maryland, this 22nd day of June, 1992.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 92–15321 Filed 6–30–92; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 672

[Docket No. 911176–2018]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock in statistical area 61 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the third quarterly allowance of the total allowable catch (TAC) for pollock in this area.

DATES: Effective 12 noon, Alaska local time (A.l.t.), June 30, 1992, until 12 noon, A.l.t., September 28, 1992.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, Fisheries Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the exclusive economic zone within the GOA is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The third quarterly allowance of pollock TAC for statistical area 61 is 2,639 metric tons, determined in accordance with § 672.20(a)(2)(iv).

The Director of the Alaska Region, NMFS, in accordance with § 672.20(c)(2)(ii), has determined that the third quarterly allowance of pollock TAC for statistical area 61 will soon be reached. Consequently, NMFS is prohibiting directed fishing for pollock in statistical area 61, effective from 12 noon A.l.t., June 30, 1992, until 12 noon, A.l.t., September 28, 1992.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 26, 1992.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–15422 Filed 6–26–92; 12:56 pm]

BILLING CODE 3510–22–M

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50 CFR Part 672

[Docket No. 911176–2018]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Modification of closures.

SUMMARY: NMFS is rescinding the closures to directed fishing for sablefish by vessels using hook-and-line gear in the West Yakutat (WY) district and the Central Regulatory Area (CRA) of the Gulf of Alaska (GOA) to allow a 24-hour directed fishery for sablefish. NMFS is announcing a new effective date for closures to directed fishing for sablefish by vessels using hook-and-line gear in these areas.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), June 28, 1992, through 12 noon, A.l.t. June 29, 1992, the closures to directed fishing for sablefish by vessels using hook-and-line gear in the WY and CRA are rescinded; and effective 12 noon, A.l.t., June 29, 1992, through 12 midnight, A.l.t., December 31, 1992, directed fishing for sablefish by vessels using hook-and-line gear in the WY and CRA is closed.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, Fisheries Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

Directed fisheries for sablefish by operators of vessels using hook-and-line gear in the WY district and the CRA were previously closed by an action published at 57 FR 24992, June 12, 1992.

The Director of the Alaska Region, NMFS (Regional Director), has determined that the share of sablefish total allowable catch (TAC) assigned to hook-and-line gear remaining in these areas is sufficient to allow a 24–hour directed fishery. Therefore, NMFS is rescinding the closures to directed fishing for sablefish by operators of vessels using hook-and-line gear in the WY district and the CRA for the period from 12 noon A.l.t., June 28, 1992, until 12 noon, A.l.t., June 29, 1992.

The Regional Director, in accordance with § 672.24(c)(3)(i), has determined that the share of the sablefish TAC assigned to hook-and-line gear in the WY district and the CRA will be taken before the end of the year. Therefore, to provide adequate bycatch amounts of sablefish to ensure continued groundfish fishing activity by hook-and-line gear, NMFS is prohibiting directed fishing for sablefish by vessels using hook-and-line gear in the WY district and the CRA, effective from 12 noon A.l.t., June 29, 1992, through 12 midnight, A.l.t., December 31, 1992.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.24 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fish, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 26, 1992.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–15423 Filed 6–26–92; 12:56 pm]

BILLING CODE 3510–22–M

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50 CFR Parts 672 and 675

[Docket No. 920382–2082]

Groundfish of the Bering Sea and Aleutian Islands Area; Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule; extension of effective dates.

SUMMARY: An emergency rule that revised management measures applicable to the management and monitoring of prohibited species bycatch in the Gulf of Alaska (GOA) and in the Bering Sea and Aleutian Islands area (BSAI) is in effect through July 2, 1992. NMFS extends the emergency rule for an additional 90-day period (through September 30, 1992) to avoid serious problems pertinent to inseason management and monitoring of prohibited species bycatch allowances. This action is intended to further the goals and objectives contained in the fishery management plans for the groundfish fisheries off Alaska.

EFFECTIVE DATES: The interim regulations published on April 3, 1992 (57 FR 11433, as corrected at 57 FR 14667, April 22, 1992, and amended at 57 FR 21355, May 20, 1992) are extended from July 3, 1992, through September 30, 1992, except for amendments to § 672.23, which are effective through July 2, 1992.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson (Fisheries Management Division, NMFS), (907) 586–7228.

SUPPLEMENTARY INFORMATION: On March 30, 1992, the Secretary of Commerce (Secretary) implemented an emergency interim rule (57 FR 11433,

April 3, 1992) under section 305(c) of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Subsequently, a notice of correction (57 FR 14667, April 22, 1992) and a technical amendment to the emergency rule (57 FR 21355, May 20, 1992) were published in the **Federal Register.** The emergency rule implemented the following measures for a 90-day period (through July 2, 1992):

1. The 1992 Pacific halibut prohibited species catch (PSC) limit for BSAI trawl gear was reduced from 5,333 metric tons (mt) to 5,033 mt;

2. Management of the BSAI trawl fisheries that are eligible to receive prohibited species bycatch allowances under § 675.21(b) was revised;

3. The GOA and BSAI directed fishing standards were revised to limit more effectively bycatch amounts of prohibited species and groundfish for which directed fishery closures have been implemented; and

4. The GOA rockfish trawl fishery was delayed until June 29, 1992, to reduce bycatch amounts of chinook salmon and revise directed fishing standards for GOA rockfish to support the season delay.

NMFS has published a proposed rule for public review and comment (57 FR 22695, May 29, 1992) that would implement permanently the temporary management measures implemented under the emergency rule. Pending approval by the Secretary, a final rule implementing these measures will not be effective before late summer, 1992. With the exception of the GOA rockfish trawl fishery delay (item 4 above), the conditions justifying the emergency action remain unchanged and warrant an extension of the emergency rule until Secretarial action is taken on the proposed rule and the measures are implemented through a final rule. Under the emergency rule, the directed rockfish trawl fishery in the GOA will start on July 1, 1992, when the third quarterly apportionment of the GOA halibut bycatch limit specified for trawl gear becomes available. Therefore, with the exception of that portion of the emergency rule addressing the delay of that fishery (§ 672.23), which will no longer be needed and which will remain effective only through July 2, 1992, the Secretary, with the agreement of the North Pacific Fishery Management Council, extends the effectiveness of the emergency rule, as corrected and amended, for an additional 90 days under section 305(c)(3)(B) of the Magnuson Act. Further background and descriptive information is contained in the preamble of the emergency rule.

The emergency rule is exempt from the normal review procedures of E.O. 12291, as provided in section 8(a)(1) of that order. This rule was reported to the Director of the Office of Management and Budget with an explanation of why following the usual procedures of that order was not possible.

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: June 25, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92-15431 Filed 6-30-92; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 127
Wednesday, July 1, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 51

[Docket No. 91-128]

Animals Destroyed Because of Brucellosis

AGENCY: Animal and Plant Inspection Service, USDA.
ACTION: Proposed rule.

SUMMARY: We are proposing to increase the amount of Federal indemnity for breeding swine (swine that are 6 months and older) destroyed because of exposure to brucellosis. The increased indemnity is necessary to give herd owners sufficient financial incentive to destroy their exposed breeding swine, thereby assisting in the accelerated eradication of brucellosis in the United States.

DATES: Consideration will be given only to comment received on or before August 31, 1992.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 91-128. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Delorias M. Lenard, Senior Staff Veterinarian, Swine Health Staff, VS, APHIS, USDA, room 736-A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7767.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a serious, infectious disease of animals and man caused by bacteria of the genus Brucella. Brucellosis in swine is characterized by abortion, infertility, orchitis, posterior paralysis, and lameness. The regulations in 9 CFR part 51 (referred to below as the regulations) provide for payment of Federal indemnity to owners of animals destroyed because of brucellosis. Under the regulations, maximum "per head" indemnity rates are set, with the provision that the Administrator shall authorize the maximum amount in each case unless: (1) sufficient funds are not available, (2) the State or area in which the animal is located is under Federal quarantine, (3) the State does not request payment of Federal indemnity, or (4) the State requests a rate lower than the maximum.

Under the regulations, owners are eligible for Federal indemnity for breeding swine (swine that are 6 months and older) destroyed as brucellosis reactors and for breeding swine destroyed because of exposure to brucellosis. However, approximately 80 percent of breeding swine herd owners offered indemnity payments for destruction of exposed breeding swine decline, many choosing instead to have their animals destroyed only if the animals are later identified as brucellosis reactors. There is currently no financial incentive for prompt action because the amount of Federal indemnity authorized for brucellosis exposed breeding swine equals the amount authorized for breeding swine destroyed as brucellosis reactors.

Brucellosis exposed swine have a high probability of contracting brucellosis and may, in fact, be contagious before they react to an official test for brucellosis. Usually swine develop a positive reaction to the blood test for brucellosis within 1 to 7 weeks after infection, but some may not do so for up to 34 months or longer. Meanwhile, the exposed breeding swine are potential transmitters of the disease.

Herd owners are eligible for Federal indemnity of only $25 per head for registered, inbred or hybrid breeding swine and only $10 a head for all other breeding swine that are destroyed because of exposure to brucellosis. These amounts are inadequate for most owners to consider destroying exposed breeding swine.

On December 18, 1981, we published in the **Federal Register** (56 FR 61641, Docket No. 81-099) a document suspending the effective date of that part of a final rule published in the **Federal Register** on November 20, 1981, that increased the maximum federal indemnity which could be paid for breeding swine destroyed because of brucellosis. The suspension was necessary because there were no funds available at the time to pay increased Federal indemnity for breeding swine destroyed because of brucellosis.

We have re-evaluated the brucellosis eradication program and determined that funds are now available to pay a higher level of indemnity payments for brucellosis exposed breeding swine. The proposed increase in indemnity payments is clearly economically sound, when actual and potential impacts of swine brucellosis are considered. By motivating producers to depopulate exposed herds, the swine brucellosis program can be brought to a speedy and successful conclusion. We therefore propose to increase the amount of Federal indemnity for breeding swine destroyed because of exposure to brucellosis to $150 a head for registered, inbred, or hybrid breeding swine and $65 a head for all other breeding swine. These amounts are consistent with the amounts offered by States that pay indemnity for brucellosis exposed breeding swine. This action would provide financial incentive for owners to destroy brucellosis exposed breeding swine in a timely manner, reducing the risk of the disease spreading.

It is estimated that the proposed Federal indemnity payments would cost approximately $87,000 in the coming year. The benefits derived from control and eventual eradication of swine brucellosis would more than compensate for this expenditure.

Patterns of swine brucellosis incidence suggest that the proposed increase in indemnity payments for exposed animals would effectively contribute to eradication of the disease. Large commercial herds are at little risk from swine brucellosis because of modern management practices and the widespread availability of disease-free seedstock. On the other hand, non-commercial herds are at high risk, particularly those that share breeding boars. Higher indemnity payments will encourage depopulating of the exposed swine of these smaller, noncommercial herds, in which infection is recurrent in relatively isolated settings.

Swine brucellosis also can have negative consequences for cattle producers. Although the pathogen does not cause clinical disease when transmitted to cattle, it creates an antibody titer that can lead to erroneous diagnostic testing for bovine brucellosis. Unnecessary costs are incurred in subjecting healthy cattle to subsequent quarantine measures and additional testing.

Swine brucellosis also presents a serious health hazard to humans. The organism causing swine brucellosis appears to have a higher degree of pathogenicity for humans than other brucella species found in the United States. Public health risks in addition to potential losses in animal productivity significantly increase the importance of depopulating brucellosis exposed swine.

Besides productivity losses and the threat to human health, swine brucellosis hinders interstate commerce. All breeding swine transported from the 12 states which have not been validated as brucellosis free first must be tested for the disease.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individuals, industries, Federal, State, or local government agencies or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

Under this proposed rule, owners of breeding swine that are destroyed because of exposure to brucellosis would be eligible for Federal indemnity amounting to an increase of $125 a head over the present rate for registered, inbred, or hybrid swine and $55 a head for all other breeding swine. We estimate that we will offer indemnity payments of approximately $87,000 for breeding swine in the coming year because of exposure to brucellosis. There are approximately 65 herd owners that would be affected by this proposal and all of these would be considered small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that the proposed rule would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule, and (3) it will not require administrative proceedings before parties may file suit in court challenging its provisions.

List of Subjects in 9 CFR Part 51

Animal diseases, Bison, Brucellosis, Cattle, Hogs, Indemnity payments.

Accordingly, 9 CFR part 51 would be amended as follows:

PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

1. The authority citation for part 51 would continue to read as follows:

Authority: 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, 134b; 7 CFR 2.17, 2.51, and 371.2(d).

§ 51.3 [Amended]

2. In § 51.3, paragraphs (b)(2) and (b)(3) would be amended by removing "$25" and adding "$150" in its place, and by removing "$10" and adding "$65" in its place.

Done in Washington, DC, this 25th day of June 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–15437 Filed 6–30–92; 8:45 am]

BILLING CODE 3410–34–M

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 263

[Docket No. R–0763; Regulation H]

Membership of State Banking Institutions in the Federal Reserve System; Rules of Practice for Hearings; Prompt Corrective Action

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board is proposing to revise Regulation H to implement for state member banks the system of prompt corrective action established by section 38 of the Federal Deposit Insurance Act (FDI Act) as added by section 131 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). Section 38 requires each federal banking agency to implement prompt corrective action for the institutions that it regulates. The Board is also proposing to revise its rules of practice for hearings to establish procedures for the issuance of directives and other actions required under prompt corrective action.

Section 38 requires or permits the Board to take certain supervisory actions when a state member bank falls within one of five specifically enumerated capital categories. It also restricts or prohibits certain activities and requires the submission of a capital restoration plan when an insured institution becomes undercapitalized. The proposed amendments to the Board's regulations are necessary to establish the capital levels at which state member banks will be deemed to come within the five capital categories. The proposed amendments also establish procedures for issuing and contesting prompt corrective action directives including directives requiring the dismissal of directors and senior executive officers.

The Board is seeking comment on all aspects of its proposal.

DATES: Written comments must be received on or before August 14, 1992.

ADDRESSES: Comments, which should refer to Docket No. R–0763, may be mailed to Mr. William Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. Comments addressed to Mr. Wiles may also be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard

entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in room B–1122 between 9 a.m. and 5 p.m., except as provided in § 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Frederick M. Struble, Associate Director (202/452–3794), Norah Barger, Supervisory Financial Analyst (202/452–2402), Division of Banking Supervision and Regulation; Scott G. Alvarez, Associate General Counsel (202/452–3583), Gregory A. Baer, Senior Attorney (202/452–3236), Legal Division; Myron L. Kwast, Assistant Director, Division of Research and Statistics, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Background

Section 131 of FDICIA, Public Law 102–242, created a new statutory framework that applies to every insured depository institution a system of supervisory actions indexed to the capital level of the individual institution. The stated purpose of this statutory provision is to resolve the problems of insured depository institutions at the least possible long-term loss to the deposit insurance fund. The new framework is contained in section 38 of the FDI Act. This framework and the authority it confers on the federal banking agencies are meant to supplement the existing supervisory authority vested in the agencies, and do not limit in any way their existing authority under other statutes or regulations to initiate supervisory actions to address capital deficiencies, unsafe or unsound conduct, practices, or conditions, or violations of law.

Section 38 requires the federal banking agencies, within 9 months of the enactment of FDICIA, to promulgate final regulations necessary to carry out the purposes of that section. Under the statute, these regulations must become effective within one year after the date of enactment of FDICIA, or no later than December 19, 1992.

It is the goal of the Board of Governors of the Federal Reserve System ("Federal Reserve Board"), the Federal Deposit Insurance Corporation ("FDIC"), the Office of the Comptroller of the Currency ("OCC"), and the Office of Thrift Supervision ("OTS") to promulgate uniform regulations to the extent feasible in implementing the prompt corrective action framework of section 38. The agencies believe that a uniform approach to capital definitions and capital categories would simplify the tasks facing bank and thrift management of monitoring and maintaining the capital levels of insured depository institutions, and would remove any competitive distortions that might arise if different standards were applied to competing institutions.

In order to implement the provisions of section 38, the agencies have proposed regulations that have uniform provisions. The agencies propose to define in the same manner the capital measures and capital thresholds for each of the five capital categories established in the statute. The agencies also propose to establish a uniform schedule for filing and review of capital restoration plans. In addition, the agencies propose to adopt identical provisions clarifying certain aspects of the capital guarantee required to be made by companies that control an undercapitalized institution as part of an acceptable capital plan, including the limit on the liability of such companies.

The agencies' proposal establishes a procedure under which institutions are provided advance notice of a proposed agency action under section 38 and provided an opportunity to respond to the proposed action. A separate procedure is proposed that governs decisions by the appropriate federal banking agency to change the capital category to which the institution is assigned after review of supervisory factors other than capital. Finally, the proposal implements the statutory requirement that officers and directors who are subject to dismissal as a result of an agency order issued under section 38 be afforded agency review of the dismissal.

Many of the provisions of section 38 apply without the need for agency action, or impose requirements or limitations on an agency in the exercise of its discretion. These provisions have not been repeated in the proposed regulation. The proposal implements only those portions of section 38 that the agencies believe require regulatory specification or clarification.

Where procedures have not been established in this proposal, such as procedures for review of a stock redemption or an expansion proposal by an undercapitalized institution, each agency will implement a procedure governing agency review. Such procedures will be established by regulation or through instructions to its appropriate field offices or examiners and to the institutions involved. In several instances, procedures governing agency review have already been established in other agency regulations.

The agencies request comment on all aspects of this proposal, including the specific numbered questions presented below. In addition, the agencies request comment on whether other provisions of section 38 require clarification or should be implemented by regulation. The agencies stress that comments may address any aspect of the proposal and need not be confined to the numbered questions set out below. Commenters are invited to submit comments to any or all of the federal banking agencies.

II. Summary of Statutory Framework

The following is a brief summary of the supervisory framework established by section 38. This summary has been prepared in order to give context to the agency proposal and request for comment. The summary is not intended to be complete description of the requirements of section 38, and commenters may find it useful to consult the provisions of section 38, contained at 12 U.S.C. 1831o, in preparing their comments.

Section 38 provides a framework of supervisory actions based on the capital level of an insured depository institution. Section 38 establishes five capital categories: well capitalized, adequately capitalized, undercapitalized, significantly undercapitalized, and critically undercapitalized. The statute deems an insured depository institution to be:

Well capitalized if the institution significantly exceeds the required minimum level for each relevant capital measure;

Adequately capitalized if the institution fails to meet the required minimum level for any relevant capital measure;

Undercapitalized if the institution fails to meet the required minimum level for any relevant capital measure;

Significantly undercapitalized if the institution is significantly below the required minimum level for any relevant capital measure; or,

Critically undercapitalized if the institution has a ratio of tangible equity to total assets of 2 percent or less, or otherwise fails to meet the critical capital level established pursuant to section 38(c)(3)(A).

The applicability of supervisory actions provided in section 38 to an individual institution depends on the institution's classification within one of these five categories.

A. Provisions Applicable to All Institutions

Section 38 prohibits are insured depository institution from declaring any individuals, making any other

capital distribution, or paying a management fee to a controlling person if, following the distribution or payment, the institution would be within any of the three undercapitalized categories. The statute provides a limited exception to this prohibition for stock redemptions that do not result in any decrease in an institution's capital and would improve the institution's financial condition provided the redemption has been approved by the institution's appropriate federal banking agency after consultation with the FDIC.

B. Provisions Appliable to Undercapitalized Institutions

Institutions that are classified as undercapitalized are subject to a number of additional mandatory supervisory actions. These include.

- Increased monitoring by the appropriate federal banking agency for the institution and periodic review of the institution's efforts to restore its capital;
- A requirement that the institution submit, generally within 45 days, a capital restoration plan acceptable to the appropriate federal banking agency for the insitution and implement that plan;
- A restriction on growth of the institution's total assets; and
- A limitation on the institution's ability to make any acquisition, open any new branch offices, or engage in any new line of business without the prior approval of the appropriate federal banking agency for the institution.

Section 38 also provides that the appropriate federal banking agency for an undercapitalized institution may take any a number of discretionary supervisory actions if the agency determines that any of these actions is necessary to resolve the problems of the institution at the least possible long-term cost to the deposit insurance fund. These discretionary supervisory actions include requiring the institution to raise additional capital, restricting transactions with affiliates, restricting interest rates paid by the institution on deposits, requiring replacement of senior executive officers and directors, restricting the activities of the institution and its affiliates, requiring divestiture of the institution or the sale of the institution to a willing purchaser, and any other supervisory action that the agency deems appropriate. Because these discretionary actions are also applicable to significantly undercapitalized institutions (as well as to critically undercapitalized institutions), these actions are described more fully in the next section.

C. Provisions Applicable to Significantly Undercapitalized Institutions

Section 38 provides that significantly undercapitalized institutions are subject to the four mandatory provisions listed above that are applicable to undercapitalized institutions. Sections 38 also provides that a significantly undercapitalized institution must restrict the payment of bonuses and raises to senior executive officers of the institution.

In addition to these mandatory requirements, section 38 specifies that the appropriate federal banking agency for the institution shall impose one or more restrictions on an institution that is significantly undercapitalized. These discretionary actions include:

- Requiring the institution to sell enough additional capital, including voting shares, so that the institution would be adequately capitalized after the sale;
- Restricting transactions between the institution and its affiliates, including transactions with its insured depository institution affiliates;
- Restricting the interest rates paid on deposits collected by the institution to the prevailing rates in the region where the institution is located;
- Restricting the institution's asset growth or requiring the institution to reduce its total assets;
- Requiring the institution or any subsidiary of the institution to terminate, reduce or alter any activity that the agency determines poses excessive risk to the institution;
- Requiring the institution to hold a new election of its board of directors;
- Requiring the institution to dismiss any director or senior executive officer who had held office at the institution for more than 180 days immediately before the institution became undercapitalized if the agency deems such dismissal to be appropriate, and to employ new officers who may be subject to agency approval;
- Prohibiting the institution from accepting deposits from correspondent depository institutions;
- Prohibiting any bank holding company that controls the institution from making any dividend payment without prior approval of the Federal Reserve Board;
- Requiring the institution to accept an offer to be acquired by another institution or company, or requiring any company that controls the institution to divest the institution;
- Requiring the institution to divest or liquidate any subsidiary that is in danger of becoming insolvent and poses a significant risk to the institution, or that is likely to cause significant dissipation of the institution's assets or earnings;
- Requiring any company that controls the institution to divest or liquidate any affiliate of the institution (other than another insured depository institution) if the appropriate federal banking agency for the holding company determines that the affiliate is in danger of becoming insolvent and poses a significant risk to the institution, or is likely to cause significant dissipation of the institution's assets or earnings; and
- Requiring the institution to take any other action that the agency determines would better carry out the purposes of section 38.

While the statute generally provides the agency with discretion to determine whether these actions are appropriate in connection with a particular institution, the statute establishes certain presumptions and requirements with respect to the agency's consideration of these actions. Section 38 requires that the agency take at least one of the above discretionary supervisory actions in connection with every institution that is significantly undercapitalized or critically undercapitalized. The statute also establishes a presumption that the agency require each significantly undercapitalized or critically undercapitalized institution to (1) be acquired by another institution or company or sell sufficient shares to restore the institution's capital to at least the minimum acceptable capital level, (2) restrict transactions with affiliates of the institution, including transactions with depository institution affiliates, and (3) restrict interest rates paid by the institution on deposits. The agency must impose each of these three actions unless the agency determines that the action would not further the purpose of section 38.

As discussed above, each of the discretionary actions listed above may also be taken in connection with undercapitalized institutions if a finding is made by the agency that the action is necessary to carry out the purposes of section 38. In addition, these discretionary actions may be taken in connection with any undercapitalized institution that fails to submit or materially implement a capital restoration plan, as if the institution were a significantly undercapitalized institution.

In addition to the discretionary actions discussed above, section 38 also provides that the appropriate federal banking agency may require a significantly undercapitalized institution or an undercapitalized institution that

has failed to submit or implement an acceptable capital restoration plan to comply with one or more of the restrictions established by the FDIC on the activities of critically undercapitalized institutions.

D. Provisions Applicable to Critically Undercapitalized Institutions

Section 38 requires that an insured depository institution that is critically undercapitalized be placed in conservatorship or receivership within 90 days, unless the appropriate federal banking agency for the institution and the FDIC concur that other action would better achieve the purposes of section 38. A determination by the agency to defer placing a critically undercapitalized institution in receivership or conservatorship must be reviewed every 90 days and must document the reasons the agency believes other action would better achieve the purposes of section 38.

The statute requires that the institution be placed in receivership if the institution continues to be critically undercapitalized on average during the fourth quarter after the institution initially became critically undercapitalized, unless certain specific statutory requirements are met. To be eligible for the exception, the institution must (1) have positive net worth, (2) be in substantial compliance with an approved capital restoration plan, (3) be profitable or have an upward trend in earnings, and (4) have reduced its ratio of nonperforming loans to total loans. In addition, the head of the appropriate federal banking agency for the institution and the Chairperson of the FDIC must both certify that the institution is viable and not expected to fail.

Critically undercapitalized institutions are also prohibited, beginning 60 days after becoming critically undercapitalized, from making any payment of principal or interest on subordinated debt issued by the institution without the prior approval of the FDIC. Section 38 does not prevent unpaid interest from accruing on subordinated debt under the terms of the debt instrument.

Section 38(i) of the FDI Act also provides that the FDIC, by regulation or order, must restrict the activities of critically undercapitalized institutions. At a minimum, the FDIC must prohibit a critically undercapitalized institution from doing any of the following without the prior written approval of the FDIC:

- Entering into any material transaction other than in the usual course of business. Such activities include any investment, expansion, acquisition, sale of assets or other similar action where the institution would have to notify its appropriate federal banking agency;
- Extending credit for any highly leveraged transaction;
- Amending the institution's charter or bylaws unless required to do so in order to carry out any other requirement of any law, regulation or order;
- Making any material change in its accounting methods;
- Engaging in any "covered transactions" within the meaning of § 23A(b) of the Federal Reserve Act (12 U.S.C. 371c), which concerns affiliate transactions;
- Paying excessive compensation or bonuses; and
- Paying interest on new or renewed liabilities at a rate which would increase the institution's weighted average cost of funds to a level significantly exceeding the prevailing rates in the institution's normal market areas.

Pursuant to section 38(j) of the FDI Act, none of these restrictions apply to institutions in conservatorship or to any bridge bank that is wholly owned by the FDIC or the RTC.

Pursuant to section 38(o)(2) of the FDI Act, none of these restrictions shall apply, before July 1, 1994, to any insured savings association if:

(a) The savings association had submitted a plan meeting the requirements of section 5(t)(A)(ii) of the Home Owners' Loan Act;

(b) The Director of OTS had accepted the plan; and

(c) The savings association remains in compliance with the plan or is operating under a written agreement with the appropriate federal banking agency.

III. Proposal and Request for Comment

A. Capital Measures

For purposes of defining each of the capital categories (except for the critically undercapitalized category), section 38(c) requires the agencies to prescribe capital standards that include a leverage limit and a risk-based capital requirement. The agencies may establish additional capital measures for these categories if additional capital measures would serve the purposes of section 38. In addition, section 38 permits the agencies to rescind the leverage limit or the risk-based capital measure if the federal banking agencies concur that either measure is no longer an appropriate means for carrying out the purposes of section 38.

The agencies are proposing to adopt the leverage limit and the total risk-based capital measure in defining the capital categories other than the critically undercapitalized category. In addition, the agencies propose to adopt the Tier 1 risk-based capital ratio as a capital measure in defining these capital categories. These measures are generally used by the federal banking agencies in determining the adequacy of capital of insured depository institutions.

Comment 1: The agencies request comment on whether adoption of these three capital measures is appropriate to carry out the purpose of section 38.

The agencies note that the capital requirements applicable to insured depository institutions may be affected by section 305 of FDICIA, which amends section 18 of the Federal Deposit Insurance Act ("FDI Act") to require the agencies to revise their risk-based capital standards to take into account interest rate risk, concentration of credit risk, and the risks of nontraditional activities. The statutory deadline for implementation of these revisions is in June 1993.

As the revisions required under section 18 of the FDI Act are implemented, it might prove necessary of appropriate to review the capital measures and thresholds specified for the various capital categories. In particular, the agencies note that one of the rationales for retaining a leverage ratio after the risk-based capital measure was introduced was that the risk-based capital measure is focused on credit-related risk, and does not explicitly factor in other risks, particularly interest rate risk. The agencies will address in an appropriate and expeditious manner the need for lowering or eliminating the leverage capital component from the definitions of well capitalized, adequately capitalized, undercapitalized, and significantly undercapitalized after the risk-based capital standards have been revised by each Federal banking agency to take account of interest rate risk as required by section 305 of FDICIA.

B. Definition of Capital Terms

The agencies propose to adopt the same definitions of capital terms for purposes of the prompt corrective action provisions of section 38 as are currently used under the capital adequacy guidelines or regulations adopted by the agencies. The definition of the risk-based and leverage capital ratios for purposes of the prompt corrective action subpart would refer to the definitions of Tier 1 capital, total capital, total risk-weighted assets, adjusted total assets, and total assets as those terms are defined in the agencies' current capital adequacy guidelines and regulations.

This proposal attempts to reduce complexity that could result from the use of new or modified capital definitions, and to minimize confusion and the possibility that an institution may be uncertain regarding its capital levels for purposes of section 38.

Comment 2: The agencies request public comment regarding whether this approach is appropriate or whether the agencies should modify the existing capital definitions for purposes of applying section 38. If adjustments of modifications to the capital definitions currently used are deemed to be appropriate, the agencies request comment on what type of adjustments or modifications should be made.

Comment 3: The agencies also request comment regarding the appropriate period for calculation of capital levels. Under current practice and requirements, the level of capital of an institution is calculated on the basis of the amount of capital held by the institution on a given day as a ratio of the most recent quarterly average of total assets or quarter-end risk-weighted assets for the institution. A daily calculation of both capital and assets may facilitate prompt action under section 38. However, the agencies note that insured depository institutions are not currently required to make daily calculations of capital, and such a requirement would increase the reporting burden on many institutions. In addition, a daily calculation may distort capital calculations by focusing on individual daily events (such as a decline in the market value of certain investments on a given day) rather than on related actions taken during a given period or remedial actions that are readily available to the institution (such as a decline in market value in one investment followed by a gain realized on the sale of another investment).

Comment 4: The agencies request comment on whether, for purposes of applying the prompt corrective action requirements of section 38, the use of quarterly average total assets or quarter-end risk-weighted assets in calculating capital levels is appropriate, or whether the capital calculations for an institution should be based on an actual daily measure or quarter-end measure of the institution's capital and assets.

Comment 5: The agencies also request comment on whether a daily calculation of total assets and risk-weighted assets is feasible, and whether a requirement that an institution make daily calculations would impose significant added burden on insured depository institutions.

C. Specific Capital Levels for Five Capital Categories

Section 38 requires the agencies to establish specific capital thresholds for each capital category and sets general standards, as described above, for each of these categories. Under these standards, an institution is adequately capitalized if it meets the required minimum level for each relevant capital measure. Thus, capital levels set for the adequately capitalized category generally would be the same as the minimum ratios established under the existing minimum capital adequacy rules and guidelines adopted by the agencies. These minimums are 8 percent for the total risk-based capital ratio, 4 percent for the Tier 1 risked-based capital ratio, and 4 percent for the Tier 1 leverage ratio (3 percent for composite 1-rated banks and savings associations, subject to appropriate federal banking agency guidelines). An institution would have to meet all these minimums in order to be deemed adequately capitalized.

The statute also provides specific guidance as to the capital level for defining a critically undercapitalized institution. Section 38 requires that a critically undercapitalized institution be defined by reference to the institution's ratio of tangible equity to total assets. The statute requires the agencies to establish the threshold ratio for defining a critically undercapitalized institution at no lower than 2 percent. As discussed below, the agencies are proposing that a critically under capitalized institution be defined as any institution that has a Tier 1 leverage ratio of 2 percent or less.

Taking the capital levels for the adequately capitalized and critically undercapitalized categories as benchmarks, the agencies are proposing that the capital levels for the undercapitalized category be defined as any level under 8 percent for the total risk-based capital ratio, under 4 percent for the Tier 1 risk-based capital ratio, or under 4 percent for the Tier 1 leverage ratio (under 3 percent for composite 1-rated banks and savings associations, subject to appropriate federal banking agency guidelines). An institution would be considered undercapitalized if it were below the specified capital level for any of the three capital measures.

Further, the capital levels for significantly undercapitalized institutions would be defined as any level under 6 percent for the total risk-based capital ratio, under 3 percent for the Tier 1 risk-based capital ratio, or under 3 percent for the Tier 1 leverage ratio. An institution would be considered significantly undercapitalized if it were below the specified capital level for any of the three capital measures. Under the proposed definitions, an institution that is significantly undercapitalized also would be deemed to be undercapitalized. Similarly, an institution that is critically undercapitalized also would be deemed to be significantly undercapitalized and undercapitalized. The overlap between these categories is contemplated by the statute and has the effect of applying to significantly undercapitalized institutions and to critically undercapitalized institutions any provisions of section 38 that are applicable to undercapitalized institutions.

The agencies are proposing to establish the minimum total risk-based capital level for the well capitalized category at 10 percent and to set the minimum leverage capital level for this category at 5 percent. To emphasize the importance the agencies place on Tier 1 capital, it is proposed that for the well capitalized category the minimum level for the Tier 1 risk-based capital ratio be set at 6 percent. The specifications of the minimum ratios for the well capitalized category are proposed at levels that are 25 percent to 50 percent higher than the minimum for the adequately capitalized category to promote safe and sound banking conditions, giving due consideration to the international capital standards to which the United States and other G–10 countries have agreed, and to the competitive pressures faced by U.S. banks operating in international markets with foreign banks adhering to these standards.

Capital ratios alone, of course, are not fully indicative of the capital strength of an institution. In particular, in proposing these minimum capital levels, the agencies are aware that some poorly-rated depository institutions have capital ratios above the specified minimums for the well capitalized and adequately capitalized categories. One reason that some poorly-rated institutions qualify as well capitalized for prompt corrective action purposes is that capital is a lagging indicator of problems of insured depository institutions.

Some institutions are subject to a written order or directive that establishes a higher capital level for the institution. The agencies are proposing that for an institution to be well capitalized, it must not be subject to any written capital order or directive. This proposal reflects the view that an institution that is subject to a written

capital directive from the appropriate federal banking agency does not have capital that significantly exceeds the required minimum level for the relevant capital measures.

The agencies also intend to assess carefully all aspects of a troubled institution's condition, and to exercise their reclassification authority under section 38(g) of FDICIA. Section 38(g) gives the agencies discretion to downgrade, where appropriate, a "well capitalized" institution by one category and require an "adequately capitalized" or "undercapitalized" institution to comply with supervisory actions as if it were in the next lower category if that institution has received a less-than-satisfactory examination rating for asset quality, management, earnings, or liquidity without correcting the deficiency. Any institution would be subject to downgrading on the basis of the components of the institution's examination rating, including an institution that has been deemed not to be within the well capitalized category because the institution is subject to a written capital order or directive.

While the prompt corrective action framework constitutes an additional supervisory tool, the federal banking agencies continue to have available all supervisory tools traditionally used to supervise institutions. The agencies also fully intend to use these tools as appropriate in supervising institutions. These include appropriate enforcement actions and supervisory follow-up measures based upon the institution's overall condition and the existence of any financial, operational, or other supervisory weaknesses, irrespective of the organization's capital category for purposes of the prompt corrective action provisions of section 38.

Accordingly, the assignment of an institution to a particular capital category—including the well capitalized category—does not prevent the appropriate federal banking agency from taking other supervisory action that the agency deems to be appropriate. Moreover, in light of the intended limited purpose of a capital category designation, the agencies are proposing to limit a given insured depository institution's use of its capital category, except when permitted by the appropriate federal banking agency or otherwise required by statute or regulation. This is intended to limit the ability of insured depository institutions to advertise their category.

Comment 6: The agencies invite comment on this limitation on advertising.

Traditionally, examiners have reached judgments on an institution's capital needs by also taking into account a range of factors such as interest rate risk and concentration risk. The agencies have initiatives under way mandated by FDICIA to review their risk-based capital standards to ensure that they take more adequate account of such risks, and also have been engaged in a project under the Federal Financial Institutions Examination Council ("FFIEC") to refine and improve procedures for assessing the reserving policies and practices of individual institutions. After those projects have been completed and improvements implemented and assessed, the agencies intend to revisit the question of how the specifications for the well capitalized category may need to be modified or adjusted.

Comment 7: The agencies request comment on all aspects of the capital levels proposed in the draft regulation.

Comment 8: In particular, the agencies seek comment on whether the specific levels set for each capital category are appropriate, as well as whether it is appropriate to require that well-capitalized institutions not be subject to a capital order or directive.

D. Critically Undercapitalized Institutions

The statute requires that the critically undercapitalized category be based on the ratio of tangible equity to total assets of the institution. Section 38 requires that the minimum ratio for this category be established at a level of tangible equity that is no less than 2 percent of the institution's total assets, and that is no higher than the ratio equal to 65 percent of the required minimum level of capital under the leverage limit. The agencies may, be regulation, specify additional capital measures (such as a risk-based capital ratio) in defining the critically undercapitalized category. Any such measures may not, without the concurrence of the FDIC, be set at a level lower than the level specified by the FDIC for insured state-chartered banks that are not members of the Federal Reserve System.

The agencies are proposing to define critically undercapitalized institutions as institutions that have a ratio of Tier 1 capital to total assets of 2 percent or less. The agencies do not at this time propose to establish any additional capital measures for the critically undercapitalized category.

Under this proposal, the agencies would define tangible equity to be Tier 1 capital as defined under the agencies' existing capital adequacy guidelines or regulations. The use of the Tier 1 capital definition has been proposed for several reasons. The definition of Tier 1 capital requires a deduction from equity capital for most intangible assets, including goodwill. The use of Tier 1 capital also focuses primarily on common equity rather than other forms of equity and, therefore, represents the most secure form of equity available to absorb losses that may be incurred by an insured depository institution.

In addition, because Tier 1 capital is an element of the existing capital adequacy guidelines and is included in the definition of the other capital measures proposed under section 38, use of the Tier 1 capital definition would promote consistency and simplicity and, therefore, minimize the potential for confusion in the capital computations required to be made by insured depository institutions. It would also reduce the potential for distortion in the capital raising efforts of insured depository institutions and for anomalies in the classification of institutions under section 38 that might result from use of a substantially different definition of capital for the critically undercapitalized category than is used for the other capital categories.

Comment 9: The agencies request public comment on this definition.

Comment 10: The agencies also request comment on whether the definition of tangible equity should reflect additional adjustments to deduct intangible assets. The agencies note that section 475 of FDICIA requires the federal banking agencies to determine whether a portion of certain purchased mortgage servicing rights should be included in the calculation of tangible capital. The agencies also recently sought public comment on a proposal to permit insured depository institutions to include a portion of certain purchased credit-card relationships in the calculation of tangible capital for purposes of meeting applicable minimum capital adequacy standards.

Comment 11: The agencies request comment on whether purchased mortgage servicing rights and purchased credit-card relationships should be excluded from the definition of tangible equity for purposes of section 38.

Similarly, investments in certain types of subsidiaries, which savings associations are required to deduct for purposes of their general capital calculations, represent realizable assets which buffer the exposure of the deposit insurance funds.

Comment 12: The agencies request comment on whether these investments should be deducted in computing the relevant capital ratio for purposes of determining whether an institution is critically undercapitalized.

Comment 13: In addition, the agencies request comment on whether tangible equity should be defined to take into account broader forms of equity beyond those included in the definition of Tier 1 capital.

Comment 14: In particular, the agencies request comment on whether cumulative perpetual preferred stock should be included in determining whether an institution is critically undercapitalized.

Comment 15: Because the agencies are not proposing to include this form of equity in determining whether an institution is critically undercapitalized, the agencies also request comment on whether a transition period should be permitted for institutions that are permitted to rely on cumulative perpetual preferred stock under currently outstanding agency orders.

Comment 16: The agencies also request comment on whether a higher threshold should be established than the proposed 2 percent leverage limit. By statute, this ratio may not exceed 65 percent of the minimum leverage ratio established by the agencies.

Comment 17: Finally, the agencies request comment on whether it is appropriate to establish additional capital measures for the critically undercapitalized category. As noted above, section 38 permits the agencies to establish additional capital measures in defining the critically undercapitalized category. The agencies are proposing the use the total risk-based capital measure and the Tier 1 risk-based capital measure for all other categories, but are not proposing to use these capital measures in defining critically undercapitalized institutions.

E. Calculation of Capital Levels and Notice of Capital Levels

Under the proposal, an institution would be expected to monitor its capital levels continually and to notify the appropriate federal banking agency promptly if the institution's capital levels fall into a lower capital category. In addition, capital levels would be periodically determined on the basis of information filed by each insured depository institution in its quarterly Consolidated Report of Condition and Income ("Call Report"), or on the basis of information obtained in an examination or inspection of the institution. Capital levels may also be determined by the appropriate federal banking agency for an institution on the basis of other information obtained by the agency from any source. This information may include data provided by the institution to the agency on a voluntary basis, information obtained in connection with an application, calculations based on a report that the institution must file other than a Call Report, or adjustments that are appropriate bused on publicly announced events that may affect the institution's capital.

Under the proposal, an institution would be deemed to be aware of information that it files in a Call Report as of the date that the Call Report is required to be filed. Similarly, the institution would be deemed to be notified of capital levels calculated in the examination or inspection process as of the date that the examination report or inspection report is provided to the institution. In the event that the agency determines the capital levels of the institution on the basis of other information, the agencies are proposing to notify the institution in writing of the calculation and the information used as a basis for the capital calculation.

The agencies are concerned that, while the proposed arrangement for calculating the capital levels of an institution on the basis of Call Reports and reports of examination and inspection may be reliable and in most instances timely, this procedure may not always lead to a prompt calculation of capital levels for a given institution. For example, an institution may become aware of information that affects its capital calculation between the time that Call Reports are required to be filed and when an examination is not in process or another report may not be required. This could result in delay in application of the supervisory requirements of section 38, including the provisions that are mandated by the statute.

In order to address changes in capital promptly, the agencies propose to require insured depository institutions to notify the appropriate federal banking agency within 5 days of any event that would cause the institution to be assigned to a different capital category than the category assigned on the basis of the most recent Call Report or report of examination or inspection. The institution would be deemed to be aware of a necessary adjustment when its senior management determines that the adjustment is appropriate, even if the adjustment is not required to be reported in an official report of otherwise disclosed for some period of time. Under the proposal, the agency would review the information provided by the institution, along with any explanation provided by the institution, to determine whether the institution should be assigned to a different capital category for purposes of the provisions of section 38. This procedure would apply to both upward and downward adjustments to capital that occur between the filing of Call Reports or examinations.

Comment 18: The agencies invite public comment on all aspects of this approach to the capital calculations.

Comment 19: In particular, the agencies request comment on the use of Call Reports and examination reports as the primary bases for capital calculations.

Comment 20: In addition, the agencies request comment on the procedures that have been proposed for self-monitoring and agency notification of changes in capital levels, including comment on the burden associated with this procedure and comment on whether any other procedure to permit the timely monitoring of an institution's capital levels is appropriate.

F. Reclassification Based on Supervisory Criteria Other Than Capital Standards

Section 38 provides that the appropriate federal banking agency may, under certain circumstances, reclassify a well capitalized insured depository institution as adequately capitalized and require an adequately capitalized or undercapitalized institution to comply with supervisory actions as if it were in the next lower category (but not treat a significantly undercapitalized institution as critically undercapitalized) based on supervisory information other than the capital levels of the institution. (Reclassification to the adequately capitalized category and treatment of an institution as if it were in the next lower capital category are referred to collectively herein as a "reclassification.") The statute permits the agency to reclassify an institution where the agency has determined, after notice and opportunity for hearing, that the institution is in unsafe or unsound condition. Section 38 also provides that an institution may be reclassified if the agency deems the institution to be engaged in an unsafe or unsound practice under section 8(b)(8) of the FDI Act. 12 U.S.C. 1818(b)(8). Section 8(b)(8) of the FDI Act was amended by FDICIA to provide that an institution may be deemed to be engaged in an unsafe or unsound practice if the institution has received a less-than-satisfactory rating in its most recent examination report in any of the categories for assets, management, earnings, or liquidity, and the institution has not corrected the deficiency.

Under the proposed rule, an institution would be reclassified on any of these supervisory grounds only after

receiving prior written notice of the proposed reclassification from the agency and having an opportunity to respond to the proposed reclassification. In the case of a proposed reclassification based on a determination that the institution is in unsafe or unsound condition, the agencies also propose, pursuant to section 38, to accord the institution an opportunity for an informal oral hearing prior to the reclassification.

Because section 38 expressly provides for notice and opportunity for hearing in connection with a reclassification on the ground of unsafe and unsound condition but does not with respect to the reclassification based on examination ratings, the agencies are not proposing to provide an opportunity for an oral hearing prior to reclassification based on an institution's examination rating. In the case of a reclassification proposed on the basis of an examination rating of the institution, the agencies are proposing to provide the institution an opportunity to present written arguments and information prior to the agency's reclassification of the institution.

Under the proposal, the appropriate federal banking agency would provide an institution with written notice of the agency's intention to reclassify the institution. The institution would be provided at least 14 days to respond to the proposed reclassification unless the agency determines that the condition of the institution warrants a shorter time period for response. In its response, the institution should set forth any reasons why the proposed reclassification would not be appropriate, and provide the agency with any information that the institution believes supports its position on the reclassification. The agency would consider the response in deciding whether to proceed with the reclassification.

Comments 21: The agencies invite comment on all aspects of these procedures for reclassifying institutions based on supervisory criteria other than capital.

G. Timing of Mandatory Provisions

Under section 38, an institution becomes subject to certain mandatory provisions on the basis of the capital levels of the institution. These mandatory provisions apply immediately without agency action. As noted above, an undercapitalized institution is immediately subject to a restriction on the payment of dividends and management fees, a limitation on asset growth, and an obligation to file an acceptable capital restoration plan. In addition to these requirements, an institution that is significantly undercapitalized or critically undercapitalized is subject to a limitation on the payment of bonuses or raises to senior executive officers.

Under the proposal, once an institution is deemed to have notice of its capital levels and category or is given actual notice by the agency of the institution's capital category, the institution is deemed immediately to be subject to the mandatory provisions that apply to institutions within the corresponding capital category without any further action by the appropriate federal banking agency for the institution. As explained above, the agencies propose to deem an institution to have notice of its capital category whenever a Call Report is due to be filed by the institution, or an examination report or report of inspection has been provided to the institution. The agencies will provide actual notice to the institution of its capital categorization if the category is based on an adjustment to capital between the filing of Call Reports or examinations; if the agency determines the capital levels of the institution based on information other than information contained in the Call Reports or an examination report; or if the agency determines to reclassify the institution based on supervisory criteria other than capital.

H. Procedures for Issuing Prompt Corrective Action Directives

Section 38 also provides the agencies with discretion to impose other requirements or restrictions on an insured institution that is undercapitalized, significantly undercapitalized or critically undercapitalized, as well as on any company that controls such an institution. These discretionary supervisory actions are described above.

Because these provisions rely on an agency determination that certain action is appropriate, the agencies are proposing a procedure under which a federal banking agency would issue a written directive whenever the agency has determined that a discretionary supervisory action is appropriate. The agencies propose to provide written notice to an institution prior to issuing any directive to take an action committed by section 38 to the agency's discretion. The notice would describe the action contemplated by the agency and would provide the institution or company with 14 calendar days to respond to the proposed agency action, unless the agency determines that a shorter response period is appropriate in light of the condition of the institution.

Under the proposal, the institution or company would be permitted to submit written arguments regarding whether the directive is an appropriate exercise of the agency's discretion, along with any information or evidence supporting the respondent's position. Failure to file a timely response would constitute consent to the issuance of the directive and a waiver of the opportunity to appeal. The agency would consider the institution's response prior to issuing a final directive to take action under section 38.

The agencies are also proposing to permit the appropriate federal banking agency to issue a final directive without notice or opportunity to respond where immediate supervisory action is appropriate. In cases where immediate action is necessary, the agencies propose to provide the institution with an opportunity to appeal the action to the agency and request modification or rescission of the agency action following issuance of the directive. An institution that seeks to appeal an immediately effective directive would be required to file a written appeal with the agency within 14 calendar days of the effective date of the directive. The agency would be required to consider and take action regarding a timely appeal within 60 days of receiving the appeal.

The agencies believe that these procedures will afford an adequate and fair opportunity to obtain agency review of the agency's action. *See, e.g., FDIC* v. *Mallen*, 486 U.S. 230 (1988) (upholding post-deprivation hearing in case of suspension or removal of a bank officer charged with a felony); *Federal Deposit Ins. Corp.* v. *Bank of Coushatta*, 930 F.2d 1122 (5th Cir. 1991), *cert. denied*, 112 S. Ct. 170 (1992) (affirming procedures for issuance of capital directives).

In proposing these procedures, the agencies have attempted to adhere to the mandate of section 38 that the agencies take prompt corrective action to resolve the problems of insured depository institutions at the least possible long-term loss to the deposit insurance fund while providing institutions with an opportunity for agency review of disputed factual claims. These procedures generally permit an institution advance notice of a proposed directive and an opportunity to present written information and argument to the agency prior to final agency action regarding the directive.

The agencies would not be required to follow these procedures, and the respective time periods would not apply, if an institution consented to the action

to be taken by the agency either as initially proposed by the agencies or as modified by mutual agreement. Actions taken with such consent would have the same legal affect and be enforceable to the same extent and by the same means as actions taken upon exhaustion of these procedures.

The agencies are not proposing an oral hearing in connection with the issuance of a prompt corrective action directive for several reasons. First, the terms and legislative history of section 38 indicate that Congress intended agency action under section 38 to be taken as promptly as possible. 12 U.S.C. 1831o(a)(2); see also S. Rep. No. 102–167, 102d Cong., 1st Sess. 32–38 (1991) ("The prompt corrective action system will require regulators to act at the first sign of trouble."). Second, Congress clearly indicated several occasions when it believed that a hearing was appropriate in connection with actions taken under section 38, such as orders requiring dismissal of a director or senior executive officer. Congress gave no indication in either the statutory language or legislative history that it intended to provide for an agency hearing in connection with supervisory actions committed to agency discretion under section 38. Third, a requirement that an agency hold a hearing in each case involving action committed to agency discretion under section 38 would cause the prompt corrective action provisions of section 38 largely to duplicate the existing cease-and-desist authority grant to the agencies under section 8(b) of the FDI Act.

Comment 22: The agencies request comment on all aspects of the proposal to issue prompt corrective action directives where the agency determines to apply the provisions of section 38 committed to the discretion of the agency.

Comment 23: In particular, the agencies request comment on the sufficiency of the proposal to provide notice and opportunity for written response in connection with these directives.

Comment 24: The agencies also request comment on ways that these procedures can be improved to give an institution or company that is subject to a prompt corrective action directive a fair opportunity to contest such a directive, while at the same time adhering to the statutory mandate to take prompt action to resolve the problems of inadequately capitalized institutions.

I. Enforcement of Directives

Section 8 of the FDI Act, as amended by FDICIA, includes prompt corrective action directives issued pursuant to section 38 among the orders that may be enforced in the courts pursuant to section 8(i)(1), and also makes any depository institution, company, or institution-affiliated party that violates such a directive subject to civil money penalties pursuant to section 8(i)(2)(A). 12 U.S.C. 1818(i). The proposed regulation makes clear that failure of a depository institution to implement a capital restoration plan or the failure of a company having control of a depository institution to fulfill a guarantee that the company has given in connection with a capital plan accepted by the appropriate federal banking agency will subject responsible parties to civil money penalties.

J. Dismissal of Directors or Senior Executive Officers

Section 38 provides that a director or senior executive officer dismissed by an insured depository institution in compliance with an agency directive under section 38 may obtain review of the dismissal by filing with the appropriate federal banking agency a petition of reinstatement. The statute also provides that the petitioner shall have the opportunity to submit written materials in support of the petition and to appear at a hearing before member(s) or designated employee(s) of the agency. The hearing shall occur within 30 days of the filing of the petition unless the petitioner requests a later date. The agency decision shall issue within 60 days of the date of the closing of the hearing record.

The statute appears to envision on a post-dismissal hearing procedure, as it refers to the appeal as a "petition for reinstatement" and sets a short time for agency decision. Accordingly, the proposed regulation contemplates that an institution ordered to dismiss a senior executive officer or director will take that action immediately upon receiving a final directive requiring that action. The agencies are proposing that any officer or director that is dismissed in compliance with an agency directive under section 38 be provided an opportunity to petition the appropriate federal banking agency for reinstatement within the statutorily-prescribed period.

The proposed regulation permits the affected officer or director an opportunity for an informal agency hearing. The agency will designate a presiding officer(s) to conduct the hearing. The petitioner will have the right to appear at the hearing, with counsel, and to submit written materials and present oral argument. The petitioner may present oral testimony or witnesses only with the consent of the presiding officer(s).

The proposed regulation incorporates the statutory burdens of proof imposed upon an officer or director seeking reinstatement. When the dismissal order is based upon an institution's capital category or its failure to submit or implement a capital restoration plan, the petitioner must prove that his or her continued employment would materially strengthen the institution's ability to become adequately capitalized. When the dismissal order is based upon a reclassification of an institution on grounds of unsafe or unsound condition or practice, the petitioner must prove that his or her continued employment would materially strengthen the institutions' ability to correct the condition or practice. The agencies propose to restrict the ability of an officer or director seeking reinstatement to challenge the capital category to which the institution has been assigned.

Comment 25: The agencies seek comment on these procedures.

K. Capital Restoration Plans

1. Information Required

Section 38 requires an institution that is under-capitalized, significantly under capitalized, or critically undercapitalized to submit a plan to the appropriate federal banking agency to restore the institution's capital at least to the minimum capital levels required for adequately capitalized institutions. The statute requires that this capital restoration plan be submitted in writing and specify:

(1) The steps the institution will take to become adequately capitalized;

(2) The levels of capital the institution expects to attain in each year that the plan is in effect;

(3) How the institution will comply with the restrictions and requirements imposed on the institution under section 38;

(4) The types and levels of activities in which the institution will engage; and

(5) Any other information required by the appropriate federal banking agency.

The agencies do not propose at this time to require by regulation any additional information in a capital restoration plan submitted under section 38. The agencies may, in individual cases, require an institution to provide additional information based on particular circumstances.

Comment 26: The agencies request comment on whether and what additional information should be required by regulation for all capital

restoration plans submitted under section 38.

2. Schedule for Submission and Review of Capital Plans

The statute requires the agencies to establish by regulation deadlines for the submission and review of capital restoration plans. The agencies propose to adopt the schedule generally established in the statute. Under this schedule, an institution would generally be required to submit a capital restoration plan within 45 days of receiving notice or having been deemed to have notice that the institution is undercapitalized, significantly undercapitalized or critically undercapitalized. As discussed above, an institution is deemed to have been notified of its capital category on the date that it is required to file its Call Report, the date that the institution receives its final report of examination or inspection, or the date that the appropriate federal banking agency notifies the institution of the institution's capital category (based on an adjustment to capital reported by the institution or on other information obtained by the agency). Under the proposal, the appropriate federal banking agency may change this period in individual cases, in which case the agency would notify the institution that a different schedule has been adopted.

The proposed schedule would require the appropriate federal banking agency to review each capital restoration plan within 60 days of submission of the plan unless the agency extends the time for review. The agencies propose to provide written notice to the institution regarding whether the agency has approved or rejected the capital plan. The agency would also provide a copy of each acceptable capital restoration plan, or amendments thereto, to the FDIC within 45 days of accepting the plan.

Comment 27: The agencies request comment on the proposed time schedules for submission and review of a capital restoration plan.

3. Failure to Submit or Implement an Acceptable Capital Plan

In the event that the appropriate federal banking agency has disapproved an institution's capital restoration plan, the proposal would require the institution to submit a new capital restoration plan within a time specified by the appropriate federal banking agency. During the period following notice of such disapproval and prior to approval by the agency of a new or revised capital plan, the institution would be subject to all of the provisions in section 38 that apply to undercapitalized institutions that have failed to submit and implement, in any material respect, an acceptable capital restoration plan.

The proposed regulation incorporates the provision of section 38 that makes any insured depository institution that is undercapitalized and fails to submit or implement a capital restoration plan within the required time subject to the provisions applicable to significantly undercapitalized institutions. Under the proposal, these provisions apply immediately upon expiration of the time for submission of a capital restoration plan. Accordingly, under the proposal, an undercapitalized institution that fails to submit a capital restoration plan within the required time would, upon the expiration of that period, become subject to the mandatory and discretionary provisions of section 38 outlined above that are applicable to significantly undercapitalized institutions, including limitations on the compensation paid to senior executive officers. An undercapitalized institution that fails to implement, in any material respect, its capital restoration plan would immediately be subject to these same provisions upon the institution's failure to implement the plan.

Comment 28: The agencies invite comment on each of these aspects of the proposed rule.

4. Content of Capital Restoration Plans

Section 38 provides that the appropriate federal banking agency may not accept a capital restoration plan unless the plan:

(1) Contains the information required by statute;

(2) Is based on realistic assumptions and is likely to succeed in restoring the institution's capital; and

(3) Would not appreciably increase the risk (including credit risk, interest-rate risk, and other types of risk) to which the institution is exposed.

The statute also provides that the appropriate federal banking agency may not approve a capital restoration plan unless each company that controls the institution guarantees the institution's compliance with the plan until the institution has been adequately capitalized for each of four consecutive calendar quarters, and provides appropriate assurances of performance. This guarantee by any controlling company is independent of any liability of affiliates of the depository institution pursuant to the cross-guarantee provision of the FDI Act.

5. Capital Plan Performance Guarantee

The agencies propose to implement the performance guarantee provision, contained in section 38(e)(2)(E), by requiring each company to submit a written guarantee of any capital plan submitted by an undercapitalized, significantly undercapitalized, or critically undercapitalized institution controlled by the company. This guarantee would include assurance that the institution would fulfill any commitments to raise capital made in the plan. Each company that provides the guarantee would be jointly and severally liable for fulfillment of the guarantee. Liability could extend to the amount necessary (up to the statutory limit of liability) to restore the institution to applicable capital standards. Failure of any company that controls an undercapitalized institution to provide the required guarantee causes the institution to become subject to the provisions of section 38 applicable to significantly undercapitalized institutions.

Comment 29: The agencies request comment on whether the rule should provide greater detail regarding the content and form of the guarantee.

Comment 30: In addition, the agencies request comment on what assurances the agencies should find to be "appropriate assurances of performance" of the capital plan and guarantee. Section 38 appears to permit the agencies to determine the appropriateness of assurances in connection with the agency's review of the capital restoration plan.

Comment 31: The agencies seek comment on whether there are particular assurances that the agencies should require by regulation in all cases. For example, should the agencies require a guarantor to demonstrate that it has sufficient financial resources to honor the guarantee?

The statute limits the aggregate liability under the capital performance guarantee of all companies that control a given insured depository institution to the lesser of:

(1) An amount equal to 5 percent of the institution's total assets at the time the institution became undercapitalized; or

(2) The amount necessary (or that would be necessary) to bring the institution into compliance with all capital standards applicable with respect to such institution as of the time the institution fails to comply with its capital restoration plan.

In incorporating this provision into the regulation, the agencies propose to

adopt the same definition of total assets for purposes of computing the first component of the limit on liability as would be used in determining the capital category of the institution.

Comment 32: Accordingly, as discussed above in connection with the definition of capital categories, the agencies request comment on whether the definition of total assets should be based on a period average of total assets (as proposed above) or should be based on a daily report of the institution's total assets.

The agencies also propose that the second component of the limit on liability refers to the amount necessary to restore the capital of the institution to the applicable minimum capital levels as those levels were defined at the time that the institution initially failed to comply with its capital plan. The amount of a capital guarantee would not change if the minimum capital adequacy requirements change after the time the institution initially failed to comply with its capital restoration plan.

Comment 33: The agencies request comment on this clarification of the statutory provision.

The proposed rule also implements the statutory provision that limits the duration of a guarantee of a capital plan. Under the proposal, the appropriate federal banking agency would provide notice to the company that the guarantee has expired once the depository institution has remained adequately capitalized for four consecutive calendar quarters. The proposal makes clear that expiration of a guarantee or fulfillment of a guarantee given by a company in connection with one capital restoration plan does not relieve the company from the obligation to guarantee another capital restoration plan that may be required at a future date for the same institution if it again becomes undercapitalized. Similarly, the fact that a company has, at one time, fulfilled a guarantee by providing resources to an institution up to the statutory limit would not reduce the amount of any guarantee of a future capital plan for the same institution. Moreover, the provision or fulfillment by a company of a guarantee for one institution does not affect the obligation of that company to guarantee a capital plan in connection with any other insured depository institution.

Comment 34: The agencies request comment on these provisions of the proposal.

Comment 35: The agencies also request comment on whether the agencies should establish by regulation a time for computing the limit on liability, and, if so, when that calculation should be made.

Comment 36: In addition, the agencies request comment on whether any additional regulatory clarifications of the holding company guarantee are necessary.

6. Priority in Bankruptcy

It should be noted that the FDIC will have a priority claim in any bankruptcy proceedings of a holding company that has guaranteed an institution's compliance with a capital restoration plan. The FDIC's claim against a holding company's estate would have priority over the claims of unsecured creditors and is provided for in section 507(a)(8) of title 11 of the United States Code, as amended by the Crime Control Act of 1990, Public Law 101–647, 104 Stat. 4789. Sections 365(o) and 523(a)(12) of title 11 of the United States Code, as amended by the Crime Control Act of 1990, also provide special protections for the FDIC.

7. Submission of Plans by Reclassified Institutions

Section 38(g) provides that an institution that has been reclassified to a different capital category as a result of an agency determination that the institution is in an unsafe or unsound condition or is engaged in an unsafe or unsound practice must describe the steps the institution will take to address these deficiencies. Section 38(g) also provides that an institution that nominally has adequate capital but has been reclassified to the under-capitalized category because of its condition or practices is not required to submit a capital restoration plan. The portions of the proposed regulation regarding capital restoration plans reflect these provisions.

Comment 37: While section 38 does not require an institution that nominally has adequate capital but has been reclassified to the undercapitalized category to file a capital restoration plan, the agencies request comment regarding whether it is appropriate for the agencies to exercise their general supervisory authority to require such an institution to submit a description of the steps the institution will take to address the deficiencies in the institution's condition.

8. Revised Capital Restoration Plans

Under the proposal, and insured depository institution that is operating under a capital restoration plan that has been approved by the appropriate federal banking agency would not generally be required to submit an additional or a revised capital restoration plan if the institution's capital classification changes, unless the agency notifies the institution that a new or revised capital restoration plan is required. Under this proposal, for example, an undercapitalized institution that is implementing an approved capital restoration plan would not be required to submit a second or revised capital restoration plan if the institution experienced further declines in its capital levels unless the appropriate federal banking agency determined that a new plan was appropriate in light of the particular circumstances.

Comment 38: The agencies request comment on this approach and on whether the agencies should, by regulation, require each insured depository institution to file a new or revised capital restoration plan in the event that the institution's capital category has changed.

L. Other Matters

1. Definition of "Management Fee"

Section 38 of the FDI Act prohibits any institution from paying management fees to a controlling person if, following the payment of those fees, the institution would be undercapitalized. The statute does not provide a definition of management fees. The agencies have proposed to define management fees to include any payment of money or provision of any other thing of value to a company or individual for the provision of management services or advice other than compensation paid to an individual in the individual's capacity as an officer or employee of the institution. This definition covers all companies, including consulting firms, companies owned by the principal shareholder of an institution, and servicing corporations owned by bank holding companies. Under the proposal, compensation for duties performed by an officer or employee of the institution would not be deemed to be a management fee for purposes of section 38.

Comment 39: The agencies request comment on the proposal's provisions regarding management fees and compensation in light of the purpose of section 38 of limiting losses to the deposit insurance funds that might result from the payment of dividends or the payment of management fees by an undercapitalized institution or an institution that would be undercapitalized after the payment.

2. Definition of "Control"

Certain provisions of section 38 apply to companies that "control" an insured depository institution. Section 38 of the

FDI Act does not define the term "control". However, section 3 of the FDI Act adopts the definition of "control" contained in section 2 of the Bank Holding Company Act ("BHC Act") (12 U.S.C. 1841(a)(2)). Under the BHC Act, a company controls an institution if (1) the company owns or controls 25 percent or more of any class of voting securities of that institution; (2) the company controls in any manner the election of a majority of the board of directors of the institution; or (3) the agency determines, after notice and opportunity for hearing, that the company exercises a controlling influence over the management or policies of the institution.

Other provisions of the BHC Act exclude certain types of share ownership from the provisions of the BHC Act, including shares acquired by a company in satisfaction of a debt previously contracted ("DPC") or shares held by a company in a fiduciary capacity.

Comment 40: The agencies request comment on whether it would be appropriate under section 38 to provide, by regulation, an exception from the definition of "control" for shares acquired DPC or shares held in a fiduciary capacity.

Comment 41: In particular, the agencies request comment on whether the agencies should by regulation adopt the DPC and fiduciary ownership exceptions contained in section 2(a)(5) of the Bank Holding Company Act. Section 2(a)(5) of the BHC Act (12 U.S.C. 1841(a)(5)) permits a company to hold shares of a depository institution acquired DPC without becoming subject to the restrictions of that Act provided that the company disposes of the shares within two years (with the possibility of three one-year extensions). Section 2(a)(5) also permits a company to hold shares of a depository institution in a fiduciary capacity without becoming subject to the restrictions of the BHC Act provided that the company does not retain sole right to vote the shares.

Comment 42: Finally, in the event that an exception for shares acquired DPC is included in the regulations implementing section 38, the agencies request comment on whether the exception should include conditions similar to those contained in the DPC exception to section 5 of the FDI Act (12 U.S.C. 1815(e)), which imposes cross-guarantee requirements on affiliated institutions. Section 5 of the FDI Act contains an exception for the acquisition by an insured depository institution of shares of another depository institution in satisfaction of a debt previously contracted. That exception is conditioned on the requirement that all transactions between the controlling institution or any affiliate of the controlling institution and the subsidiary institution comply with the restrictions contained in sections 23A and 23B of the Federal Reserve Act.

3. Applicability of Capital Categories to Bank Holding Companies and Savings and Loan Holding Companies

Section 38 applies capital-based prompt corrective action to insured depository institutions but not to holding companies that control such institutions. However, various provisions of section 38 apply to companies that control insured depository institutions. These provisions appear to apply to holding companies regardless of the capital level of those holding companies.

The Federal Reserve Board and the OTS do not propose to adopt a parallel framework of capital categories for holding companies. Instead, the Federal Reserve intends to consult with the federal banking agency for each insured depository institution subsidiary of the holding company to monitor supervisory actions required under section 38, and, in the supervision of the holding company, to take appropriate action at the holding company level based on an assessment of these developments. In supervising savings and loan holding companies, the OTS will also take appropriate action at the holding company level based on an assessment of the actions taken under section 38 regarding its savings association subsidiaries.

Comment 43: The agencies request comment on whether it is appropriate for the agencies to exercise their supervisory authority under other provisions of law to establish a framework of supervisory actions for bank holding companies and savings and loan holding companies similar to those established in section 38 for insured depository institutions.

4. Restrictions on Activities of Critically Undercapitalized Institutions

Section 38(i) of the FDI Act provides that the FDIC must, by regulation or order, restrict the activities of critically undercapitalized institutions. The activities that must be restricted are described above. In order to facilitate state member banks providing comments on the FDIC's proposal to implement the restrictions on section 38(i), the following discussion of the FDIC proposal has been provided.

The FDIC proposes to rely on existing industry or regulatory guidance, to the extent possible, when evaluating and applying each of the restrictive provisions of section 38(i) and to continue to coordinate closely with the primary Federal and/or State banking regulators. The interagency procedures implemented will be similar to those already in place at both the Federal agency and state banking department levels. For example, prior to imposing any order restricting or prohibiting an institution from engaging in any of the activities that can be restricted, the FDIC would consult with the appropriate federal banking agency and State banking agency, as appropriate.

FDICIA does not provide specific guidance on how to interpret and implement each of the above restrictive provisions. Consequently, the FDIC is considering a number of options.

The prohibition on entering into "any material transaction other than in the usual course of business" can be interpreted in a general fashion relying on outstanding case law in the area of securities disclosures. The concept of materiality also could be defined from an accounting perspective by establishing specific limits for determining materiality. For example, the FDIC could, by regulation, require that any prospective transaction other than one that is in the usual course of business that results or could result in a 5 percent change in an institution's tangible equity capital account or net income account would automatically be considered a material transaction requiring the FDIC's prior approval. Other transactions could be defined as material on a case by case basis.

Comment 44: The FDIC solicits comment on how to define the terms "material" and "usual course of business" as well as what specific guidance, if any, should be provided by the FDIC to the banking industry.

The FDIC proposes to define the term "highly leveraged transaction" by utilizing the currently outstanding interagency definition published in the **Federal Register** (57 FR 5040, February 11, 1992). The FDIC proposes to rely on existing generally accepted accounting principles when interpreting the restriction on making any "material change in accounting method."

Section 39(c) of the FDI Act requires the federal banking agencies to prescribe standards for determining when compensation paid to employees, directors and principal shareholders of insured depository institutions is excessive. An advance notice of proposed rulemaking is expected to be published in the **Federal Register** in the near future. The FDIC intends to interpret the restrictive provision of section 38(i) involving the payment of excessive compensation or bonuses in a

manner that is consistent with the FDIC's actions in fulfilling the requirements of section 39(c) of the FDI Act.

The provision that restricts "paying interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds to a level significantly exceeding the prevailing rates of interest on insured deposits in the institution's normal market areas" contains terms that relate to the changes mandated by section 301 of FDICIA and the revisions of § 337.6 of the FDIC's regulations as recently implemented by the FDIC. The FDIC proposes to interpret the phrase "significantly exceeding the prevailing rates" the same as defined in § 337.6. The prevailing effective yields of interest are the effective yields on insured deposits of comparable maturities offered by other insured depository institutions in the market area in which deposits are being solicited. A rate of interest on a deposit with an odd maturity will be considered excessive if it is more than 75 basis points higher than the yield calculated by interpolating between the yields offered by other depository institutions on deposits of the next longer and shorter maturities offered in the market. A market area is any readily defined geographic area in which the rates offered by any one insured depository institution operating in the area may affect the raters offered by other institution operating in the same area.

The FDIC invites comments on all aspects of these proposed interpretations.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires an initial regulatory flexibility analysis with any notice of proposed rulemaking. A description of the reasons why the action by the Board is being considered and a statement of the objectives of, and legal basis for, the proposed rule are contained in the supplementary information above. There are no relevant federal rules that duplicate, overlap, or conflict with the proposed rule.

The proposed rule implements the prompt corrective action provisions of section 131 of FDICIA for all state member banks, regardless of size. The regulation requires each bank to monitor its capital levels and to report to the Board any event that would change the bank's capital category. The proposed rule requires that a bank that becomes undercapitalized, significantly undercapitalized, or critically undercapitalized submit a capital restoration plan.

The proposal is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. The filing of the capital plan is a requirement imposed by statute and occurs only when an institution initially becomes undercapitalized, significantly undercapitalized, or critically undercapitalized. In establishing a mechanism for gathering sufficient information to determine the appropriate capital category for each state member bank, the Board has attempted to reduce the burden imposed on such banks by relying primarily on the call report that must already be filed and on reports of examination that would otherwise take place. No additional regular reporting requirement has been proposed. Rather, each state member bank is required to monitor its capital levels—an effort that analysts at an institution should already be undertaking—and report to the Board only when an event occurs that would change the capital category in which the banks was previously placed.

Paperwork Reduction

The proposal would require certain state member banks to file capital restoration plans and would require all banks to monitor their capital levels and report any event that would result in a change in capital category under prompt corrective action. As described above, the filing of a capital plan occurs only under limited circumstances and is required by statute. The requirement that a state member bank notify the Board of an event that would change its capital category is intended to supplement existing call report data and reports of examination, and should be triggered infrequently. The institution should not be required to engage in significant additional recordkeeping to comply with this requirement.

List of Subjects

12 CFR Part 208

Accounting, Agriculture, Banks, Banking, Confidential business information, Currency, Federal Reserve System, Reporting and recordkeeping requirements, Securities.

12 CFR Part 263

Administrative practice and procedure, Federal Reserve System.

For the reasons outlined above, the Board of Governors proposes to amend 12 CFR parts 208 and 263 as set forth below:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

1. The authority citation for 12 CFR part 208 is revised to read as follows:

Authority: Secs. 9, 11(a), 11(c), 19, 21, 25 and 25(a) of the Federal Reserve Act, as amended (12 U.S.C. 321–338, 248(a), 248(c), 461, 481–486, 601, and 611, respectively); secs. 4, 13(j) and 38 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1814, 1823(j), and 1831o, respectively); sec. 7(a) of the International Banking Act of 1978 (12 U.S.C. 3105); secs. 907–910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3906–3909); secs. 2, 12(b), 12(g), 12(i), 15B(c)(5), 17, 17A, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78b, 781(b), 1781(g), 781(i), 78o–4(c)(5), 78q, 78q–1, and 78w, respectively); sec. 5155 of the Revised Statutes (12 U.S.C. 36) as amended by the McFadded Act of 1927; and secs. 1101–1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3310 and 3331–3351).

2. The undesignated centerheading preceding § 208.1 is removed, §§ 208.1 through 208.19 are designated as subpart A to part 208, and the subpart A heading is added to read as follows:

Subpart A—General Provisions

3. Subpart B, comprising §§ 208.30 through 208.35, is added to part 208 to read as follows:

Subpart B—Prompt Regulatory Action

Sec.

Subpart B—Prompt Regulatory Action

§ 208.30 Authority, purpose, applicability and other supervisory authority.

(a) *Authority.* This subpart is issued by the Board of Governors of the Federal Reserve System (Board) pursuant to section 38 (section 38) of the Federal Deposit Insurance Act (FDI Act), as added by section 131 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. 102–242, 105 Stat. 2236 (1991)) (12 U.S.C. 1831o).

(b) *Purpose.* Section 38 of the FDI Act establishes a framework of supervisory actions for insured depository institutions that are not adequately capitalized. The principal purpose of this subpart is to define, for state member banks, the capital measures

and capital levels that are used for determining the supervisory actions authorized under section 38 of the FDI Act. This subpart also establishes procedures for submission and review of capital restoration plans and for issuance and review of orders pursuant to that section.

(c) *Applicability.* This subpart implements the provisions of section 38 of the FDI Act as they apply to state member banks. Certain of these provisions also apply to officers, directors and employees of state member banks. Other provisions apply to any company that controls a state member bank and to the affiliates of a state member bank.

(d) *Other Supervisory Authority.* Neither section 38 nor this subpart in any way limits the authority of the Board under any other provision of law to take supervisory actions to address unsafe or unsound practices, deficient capital levels, violations of law or regulation, unsafe or unsound conditions, or other practices. Action under section 38 of the FDI Act and this subpart may be taken independently of, in conjunction with, or in addition to any other enforcement action available to the Board, including issuance of cease and desist orders, capital directives, approval or denial of applications or notices, assessment of civil money penalties, or any other actions authorized by law.

(e) *Limited Scope of Capital Categories.* The assignment of a bank under this subpart within a particular capital category is for purposes of implementing and applying the provisions of section 38 and, unless permitted by the Board or otherwise required by law or regulation, may not be used by, for, or on behalf of a state member bank for any other purpose.

§ 208.31 Definitions.

For purposes of this subpart, except as modified in this section or unless the context otherwise requires, the terms used in this subpart have the same meanings as set forth in sections 38 and 3 of the FDI Act.

(a) *Leverage ratio* means the ratio of Tier 1 capital to average total consolidated assets, as calculated in accordance with the Board's Capital Adequacy Guidelines for State Member Banks: Tier 1 Leverage Measure (appendix B to part 208).

(b) *Management fee* means any payment of money or provision of any other thing of value to a company or individual for the provision of management services or advice to the bank, other than compensation to an individual in the individual's capacity as an officer or employee of the bank.

(c) *Risk-weighted assets* means total weighted risk assets, as calculated in accordance with the Board's Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure (appendix A to part 208).

(d) *Tangible equity* means the amount of Tier 1 capital as calculated in accordance with the Board's Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure (appendix A to part 208).

(e) *Tier 1 capital* means the amount of Tier 1 capital as defined in the Board's Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure (appendix A to part 208).

(f) *Tier 1 risk-based capital ratio* means the ratio of Tier 1 capital to weighted risk assets, as calculated in accordance with the Board's Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure (appendix A to part 208).

(g) *Total assets* means average total consolidated assets as calculated in accordance with the Board's Capital Adequacy Guidelines for State Member Banks: Tier 1 Leverage Measure (appendix B to part 208).

(h) *Total risk-based capital ratio* means the ratio of qualifying total capital to risk-weighted assets, as calculated in accordance with the Board's Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure (appendix A to part 208).

§ 208.32 Financial data calculations and notice of capital category.

(a) *Effective date of determination of capital category.* A state member bank shall be deemed to be within a given capital category for purposes of section 38 of the FDI Act and this subpart as of the date the bank is notified of, or is deemed to have notice of, its capital category, pursuant to paragraph (b) of this section.

(b) *Notice of capital category.* A state member bank shall be deemed to have notice of its capital levels and its capital category as of the most recent of:

(1) The date of Report of Condition and Income ("Call Report") is required to be filed with the Board;

(2) The date a final report of examination or report of inspection is delivered to the bank;

(3) The date that the Board provides written notice to the bank that the bank's capital category has changed as provided in paragraph (C) of this section;

(4) The date that the Board provides written notice to the bank of its capital levels and its capital category for purposes of section 38 of the FDI Act and this subpart; or

(5) The date any written notice is served in the bank that the bank's capital category has been changed pursuant to § 208.33(c).

(c) Adjustments of reported capital levels and category—(1) *Notice of adjustment to be provided by bank.* A state member bank shall provide the Board with written notice that an adjustment to the bank's capital category may have occurred no later than 5 calendar days following the earlier of the date that the bank:

(i) Reports, or has determined to report, any event that would cause the bank to be placed in a different capital category from the category assigned to the bank for purposes of section 38 and this subpart on the basis of the bank's most recent Call Report or report of examination or inspection; or

(ii) Determines that any event has occurred that would cause the bank to be placed in a different capital category from the category assigned to the bank for purposes of section 38 and this subpart on the basis of the bank's most recent Call Report or report of examination or inspection.

(2) *Determination to change capital category.* After receiving notice pursuant to paragraph (c)(1) of this section, the Board shall determine whether the capital category of the bank should be changed and shall notify the bank of the Board's determination.

§ 208.33 Capital measures and capital category definitions.

(a) *Capital measures.* For purposes of section 38 and this subpart, the relevant capital measures shall be:

(1) The total risk-based capital ratio;

(2) The Tier 1 risk-based capital ratio; and

(3) The leverage ratio.

(b) *Capital categories.* For purposes of the provisions of section 38 and this subpart, a state member bank shall be deemed to be:

(1) "Well capitalized" if the bank:

(i) Has a total risk-based capital ratio of 10.0 percent or greater;

(ii) Has a Tier 1 risk-based capital ratio of 6.0 percent or greater;

(iii) Has a leverage ratio of 5.0 percent or greater; and

(iv) Is not subject to any order of final capital directive by the Board to meet and maintain a specific capital level for any capital measure.

(2) "Adequately capitalized" if the bank:

(i) Has a total risk-based capital ratio of 8.0 percent or greater;

(ii) Has a Tier 1 risk-based capital ratio of 4.0 percent or greater;

(iii) Has—

(A) A leverage ratio of 4.0 percent or greater, or

(B) A leverage ration of 3.0 percent or greater if the bank is rated composite 1 under the CAMEL rating system in the most recent examination or inspection of the bank and is not experiencing or anticipating significant growth; and

(iv) Does not meet the definition of a "well capitalized" bank.

(3) "undercapitalized" if the bank—

(i) Has a total risk-based capital ratio that is less than 8.0 percent; or

(ii) Has a Tier 1 risk-based capital ratio that is less than 4.0 percent; or

(iii) (A) Except as provided in clause (B), has a leverage ratio that is less than 4.0 percent; or

(B) If the bank is rated composite 1 under the CAMEL rating system in the most recent examination or inspection of the bank, has a leverage ratio that is less than 3.0 percent.

(4) "Significantly undercapitalized" if the bank has—

(i) A total risk-based capital ratio that is less than 6.0 percent; or

(ii) A Tier 1 risk-based capital ratio that is less than 3.0 percent; or

(iii) A leverage ratio that is less than 3.0 percent.

(5) "Critically undercapitalized" if the bank has a ratio of tangible equity to total assets that is equal to or less than 2.0 percent.

(c) *Classification based on supervisory criteria other than capital.* The Board may reclassify a well capitalized state member bank as adequately capitalized and may require an adequately capitalized or an undercapitalized state member bank to comply with supervisory actions as if it were in the next lower capital category (except that the Board may not reclassify a significantly undercapitalized bank as critically undercapitalized) in the following circumstances:

(1) *Unsafe or unsound conditions.* The Board has determined, after notice and opportunity for hearing pursuant to § 263.202(a) of this chapter, that the bank is in unsafe or unsound condition; or

(2) *Unsafe or unsound practice.* The Board has determined, after notice and opportunity for response pursuant to § 263.202(b) of this chapter, that the bank has received, and not corrected, a less-than-satisfactory rating for any of the categories of asset quality, management, earnings, or liquidity in the most recent examination or inspection of the bank.

§ 208.34 Capital restoration plans.

(a) *Schedule of filing plan—(1) In general.* A state member bank must file a written capital restoration plan with the appropriate Reserve Bank within 45 days of the date that the bank receives notice or is deemed to have notice that the bank is undercapitalized, significantly undercapitalized, or critically undercapitalized, unless the Board notifies the bank in writing that the plan must be filed within a different period. A bank that has been reclassified as undercapitalized pursuant to § 208.33(c) is not required to submit a capital restoration plan solely by virtue of the reclassification.

(2) *Additional capital restoration plans.* Notwithstanding paragraph (a)(1) of this section, a bank that has already submitted and is operating under a capital restoration plan approved under section 38 and this subpart is not required to submit an additional capital restoration plan based on a revised calculation of its capital measures unless the Board notifies the bank that it must submit a new or revised capital plan. A bank that is notified that it must submit a new or revised capital restoration plan shall file the plan in writing with the appropriate Reserve bank within 45 days of receiving such notice, unless the Board notifies the bank in writing that the plan is to be filed within a different period.

(b) *Contents of plan.* All financial data submitted in connection with a capital restoration plan shall be prepared in accordance with the instructions provided on the Call Report, unless the Board instructs otherwise. The capital restoration plan shall include all of the information required to be filed under section 38(e)(2) of the FDI Act, including any performance guarantee required to be executed under section 38(e)(2)(C) of that Act by each company that controls the bank. A bank that is required to submit a capital restoration plan as the result of a reclassification of the bank pursuant to § 208.33(c) shall include a description of the steps the bank will take to correct the unsafe or unsound condition or practice.

(c) *Review of capital restoration plans.* Within 60 days after receiving a capital restoration plan under this subpart, the Board will provide written notice to the bank of whether the plan has been approved. The Board may extend the time within which notice regarding approval of a plan shall be provided.

(d) *Disapproval of capital plan.* If a capital restoration plan is not approved by the Board, the bank must submit a revised capital restoration plan within the time specified by the Board. Upon receiving notice that its capital restoration plan has not been approved, any undercapitalized state member bank (as defined in § 208.33(b)(3)) shall be subject to all of the provisions of section 38 and this subpart applicable to significantly undercapitalized institutions. These provisions shall be applicable until such time as a new or revised capital restoration plan submitted by the bank has been approved by the Board.

(e) *Failure to submit a capital restoration plan.* A state member bank that is undercapitalized (as defined in § 208.33(b)(3)) and that fails to submit a written capital restoration plan within the period provided in this section shall, upon the expiration of that period, be subject to all of the provisions of section 38 and this subpart applicable to significantly undercapitalized institutions.

(f) *Failure to implement a capital restoration plan.* Any undercapitalized state member bank that fails in any material respect to implement a capital restoration plan shall be subject to all of the provisions of section 38 and this subpart applicable to significantly undercapitalized institutions.

(g) *Amendment of capital plan.* A bank that has filed an approved capital restoration plan may, after prior written notice to and approval by the Board, amend the plan to reflect a change in circumstance. Until such time as a proposed amendment has been approved, the bank shall implement the capital restoration plan as approved prior to the proposed amendment.

(h) *Notice to FDIC.* With 45 days of the effective date of Board approval of a capital restoration plan, or any amendment to a capital restoration plan, the Board will provide a copy of such plan or amendment to the Federal Deposit Insurance Corporation.

(i) *Performance guarantee by companies that control a bank.*—(1) *Limitation on liability.*—(i) *Amount limitation.* The aggregate liability under the guarantee provided under section 38 and this subpart for all companies that control a specific state member bank that is required to submit a capital restoration plan under this subpart shall be limited to the lesser of:

(A) An amount equal to 5.0 percent of the bank's total assets at the time the bank was notified or deemed to have notice that the bank was undercapitalized; or

(B) The amount necessary to restore the relevant capital measures of the bank to the levels required for the bank to be classified as adequately capitalized, as those capital measures

and levels are defined at the time that the bank initially fails to comply with a capital restoration plan under this subpart.

(ii) *Limit on duration.* The guarantee and limit of liability under section 38 and this subpart shall expire after the Board notifies the bank that it has remained adequately capitalized for each of four consecutive calendar quarters. The expiration or fulfillment by a company of a guarantee of a capital restoration plan shall not limit the liability of the company under any guarantee required or provided in connection with any capital restoration plan filed by the same bank after expiration of the first guarantee.

(iii) *Collection on guarantee.* Each company that controls a given bank shall be jointly and severally liable for the guarantee for such bank as required under section 38 and this subpart, and the Board may require and collect payment of the full amount of that guarantee from any or all of the companies issuing the guarantee.

(2) *Failure to provide guarantee.* In the event that a bank that is controlled by any company submits a capital restoration plan that does not contain the guarantee required under section 38(e)(2) of the FDI Act, the bank shall, upon submission of the plan, be subject to the provisions of section 38 and this subpart that are applicable to banks that have not submitted an approved capital restoration plan.

(3) *Failure to perform guarantee.* Failure by any company that controls a bank to perform fully its guarantee of any capital plan shall constitute a material failure to implement the plan for purposes of section 38(f) of the FDI Act. Upon such failure, the bank shall be subject to the provisions of section 38 and this subpart that are applicable to banks that have failed in a material respect to implement a capital restoration plan.

§ 208.35 Mandatory and discretionary supervisory actions under section 38.

(a) *Mandatory supervisory actions.*—(1) *Provisions applicable to all banks.* All state member banks are subject to the restrictions contained in section 38(d) of the FDI Act on payment of capital distributions and management fees.

(2) *Provisions applicable to undercapitalized, significantly undercapitalized, and critically undercapitalized banks.* Immediately upon receiving notice or being deemed to have notice, as provided in § 208.32 or § 208.34 of this subpart, that the bank is undercapitalized, significantly undercapitalized, or critically undercapitalized, the bank shall become subject to the provisions of section 38 of the FDI Act—

(i) Restricting payment of capital distributions and management fees (section 38(d));

(ii) Requiring that the Board monitor the condition of the bank (section 38(e)(1));

(iii) Requiring submission of a capital restoration plan within the schedule established in this subpart (section 38(e)(2));

(iv) Restricting the growth of the bank's assets (section 38(e)(3)); and

(v) Requiring prior approval of certain expansion proposals (section 38(e)(4)).

(3) *Additional provisions applicable to significantly undercapitalized, and critically undercapitalized banks.* In addition to the provisions of section 38 of the FDI Act described in paragraph (a)(2) of this section, immediately upon receiving notice or being deemed to have notice, as provided in § 208.32 or § 208.34 of this subpart, that the bank is significantly undercapitalized, or critically undercapitalized, the bank shall become subject to the provisions of section 38 of the FDI Act that restrict compensation paid to senior executive officers of the institution (section 38(f)(4)).

(4) *Additional provisions applicable to critically undercapitalized banks.* In addition to the provisions of section 38 of the FDI Act described in paragraphs (a) (2) and (3) of this section, immediately upon receiving notice of being deemed to have notice, as provided in § 208.32 or § 208.34 of this subpart, that the bank is critically undercapitalized, the bank shall become subject to the provisions of section 38 of the FDI Act—

(i) Restricting the activities of the bank (section 38(h)(1)); and

(ii) Restricting payments on subordinated debt of the bank (section 38(h)(2)).

(b) *Discretionary supervisory actions.* In taking any action under section 38 that is within the Board's discretion to take in connection with a state member bank that is deemed to be undercapitalized, significantly undercapitalized or critically undercapitalized, an officer or director of such bank, or a company that controls such bank, the Board will follow the procedures for issuing directives under §§ 263.201 and 263.203 of this chapter, unless otherwise provided in section 38 or this subpart.

4. Subparts C and D are added to part 208 and reserved, the undesignated centerhead preceding § 208.116 is removed, §§ 208.116, 208.117, 208.122, and 208.124 through 208.128 are designated as subpart E of part 208, and the subpart E heading is added to read as follows:

Subpart E—Interpretations

PART 263—RULES OF PRACTICE FOR HEARINGS

1. The authority citation for 12 CFR part 263 is revised to read as follows:

Authority: 5 U.S.C. 504; 12 U.S.C. 248, 324, 504, 505, 1817(j), 1818, 1828(c), 1831o, 1847(b), 1847(d), 1884(b), 1972(2)(F), 3105, 3107, 3108, 3907, 3909, 15 U.S.C. 21, 78o–4, 78o–5, and 78u–2.

2. Section 263.50(b) is amended by removing the word "and" at the end of paragraph (b)(9), removing the period at the end of paragraph (b)(10) and adding in its place a semicolon, and by adding paragraphs (b)(11) through (b)(14) to read as follows:

§ 263.50 Purpose and scope.

* * * * *

(b) * * *

(11) Issuance of a prompt corrective action directive to a member bank under section 38 of the FDI Act (12 U.S.C. 1831o);

(12) Reclassification of a member bank on grounds of unsafe or unsound condition under section 38(g)(1) of the FDI Act (12 U.S.C. 1831o(g)(1));

(13) Reclassification of a member bank on grounds of unsafe and unsound practice under section 38(g)(1) of the FDI Act (12 U.S.C. 1831o(g)91)); and

(14) Issuance of an order requiring a member bank to dismiss a director or senior executive officer under section 38(e)(5) and 38(f)(2)(F)(ii) of the FDI Act (12 U.S.C. 1831o(e)(5) and 1831o(f)(2)(F)(ii)).

3. A new subpart H is added to part 263 to read as follows:

Subpart H—Issuance and Review of Orders Pursuant to Prompt Regulatory Action

Sec.

SUBPART H—INSURANCE AND REVIEW OF ORDERS PURSUANT TO PROMPT REGULATORY ACTION

§ 263.200 Scope.

(a) The rules and procedures set forth in this subpart apply to state member banks, companies that control state member banks or are affiliated with

such banks, and senior executive officers and directors of state member banks that are subject to the provisions of section 38 of the Federal Deposit Insurance Act (section 38) and subpart B of part 208 of this chapter.

§ 263.201 Directives to take prompt regulatory action.

(a) *Notice of intent to issue a directive.*—(1) *In General.* The Board will provide an undercapitalized, significantly undercapitalized, or critically undercapitalized state member bank or, where appropriate, any company that controls the bank, prior written notice of the Board's intention to issue a directive requiring such bank or company to take actions or to follow proscriptions described in section 38 that are within the Board's discretion to require or impose under section 38(e)(5), (f)(2), (f)(3), or (f)(5) of the FDI Act.

(2) *Immediate issuance of final directive.* If the propose Board finds it necessary in order to carry out the purposes of section 38 of the FDI Act, the Board may, without providing the notice prescribed in paragraph (a)(1) of this section, issue a directive requiring a state member bank or any company that controls a state member bank immediately to take actions or to follow proscriptions described in section 38 that are within the Board's direction to require or impose under section 38(e)(5), (f)(2), (f)(3), or (f)(5) of the FDI Act. A bank or company that is subject to such an immediately effective directive may submit a written appeal of the directive of the Board. Such an appeal must be received by the Board within 14 calendar days of the issuance of the directive. The Board shall consider any such appeal, if filed in a timely matter, within 60 days of receiving the appeal. During such period of review, the directive shall remain in effect unless the Board, in its sole discretion, stays the effectiveness of the directive.

(b) *Contents of notice.*—A notice of intention to issue a directive shall include:

(1) A statement of the bank's capital measures and capital levels;

(2) A description of the restrictions, prohibitions or affirmative actions that the Board proposes to impose or require;

(3) The proposed date when such restrictions or prohibitions would be effective or the proposed date for completion of such affirmative actions; and

(4) The date by which the bank or company subject to the directive may file with the Board a written response to the notice.

(c) *Response to notice.*—(1) *Time for Response.* A bank or company may file a written response to a notice of intent to issue a directive within the time period set by the Board. The date shall be at least 14 calendar days from the date of the notice unless the Board determines that a shorter period is appropriate in light of the financial condition of the bank or other relevant circumstances.

(2) *Content of Response.* The response should include:

(i) An explanation why the action proposed by the Board is not an appropriate exercise of discretion under section 38;

(ii) Any recommended modification of the proposed directive; and

(iii) Any other relevant information, mitigating circumstances, documentation, or other evidence in support of the position of the bank or company regarding the proposed directive.

(d) *Failure to file agency response.* Failure by a bank or company to file with the Board, within the specified time period, a written response to a proposed directive shall constitute a waiver of the opportunity to respond and shall constitute consent to the issuance of the directive.

(e) *Board consideration of response.* After considering the response, the Board may:

(1) Issue the directive as proposed or in modified form;

(2) Determine not to issue the directive and so notify the bank or company; or

(3) Seek additional information or clarification of the response from the bank or company, or any other relevant source .

(f) *Request for modification or rescission of directive.* Any bank or company that is subject to a directive under this subpart may, upon a change in circumstances, request in writing that the Board reconsider the terms of the directive, and may propose that the directive be rescinded or modified. Unless otherwise ordered by the Board, the directive shall continue in place while such request is pending before the Board.

§ 263.202 Procedures for reclassifying a state member bank based on criteria other than capital.

(a) *Classification of a state member bank based on unsafe or unsound condition—(1)Issuance of notice of proposed reclassification.* If the Board determines to reclassify a well capitalized state member bank as adequately capitalized or to require an adequately capitalized or undercapitalized state member bank to comply with supervisory actions as if it were in the next lower capital category pursuant to section 38(g) of the FDI Act and § 208.33(c)(1) of Regulation H (12 CFR 208.33(c)(1)) because the Board deems the bank to be in unsafe or unsound condition (each of the foregoing referred to hereinafter as a "reclassification"), the Board will issue and serve on the bank a written notice of the Board's intention to reclassify the bank.

(2) *Contents of notice.* A notice of intention to reclassify a bank based on unsafe or unsound condition will include:

(i) A statement of the bank's capital measures and capital levels and the category to which the bank would be reclassified;

(ii) The reasons for reclassification of the bank;

(iii) The date by which the bank subject to the notice of reclassification may file with the Board a written appeal of the proposed reclassification and a request for a hearing, which shall be at least 14 calendar days from the date of service of the notice unless the Board determines that a shorter period is appropriate in light of the financial condition of the bank or other relevant circumstances.

(3) *Response to notice of proposed reclassification.* A bank may file a written response to a notice of proposed reclassification within the time period set by the Board. The response should include:

(i) An explanation of why the bank is not in unsafe or unsound condition or otherwise should not be reclassified;

(ii) Any other relevant information, mitigating circumstances, documentation, or other evidence in support of the position of the bank or company regarding the reclassification.

(4) *Failure to file response.* Failure by a bank to file, within the specified time period, a written response with the Board to a notice of proposed reclassification shall constitute a waiver of the opportunity to respond and shall constitute consent to the reclassification.

(5) *Request for hearing and presentation of oral testimony or witnesses.* The response may include a request for an informal hearing before the Board or its designee under this section. If the bank desires to present oral testimony or witnesses at the hearing, the bank must include a request to do so with the request for an informal hearing. A request to present oral testimony or witnesses shall specify the names of the witnesses and the general nature of their expected testimony. Failure to request a hearing shall

constitute a waiver of any right to a hearing, and failure to request the opportunity to present oral testimony or witnesses shall constitute a waiver of any right to present oral testimony or witnesses.

(6) *Order for informal hearing.* Upon receipt of a timely written request including a request for a hearing, the Board shall issue an order directing an informal hearing to commence no later than 30 days after receipt of the request, unless the bank requests a later date. The hearing shall be held in Washington, DC or at such other place as may be designated by the Board, before a presiding officer(s) designated by the Board to conduct the hearing.

(7) *Hearing procedures.* (i) The bank shall have the right to introduce relevant written materials and to present oral argument at the hearing. The bank may introduce oral testimony and present witnesses only if expressly authorized by the Board or the presiding officer(s). Neither the provisions of the Administrative Procedure Act governing adjudications required by statute to be determined on the record nor the Uniform Rules of Practice and Procedure in subpart A of this part apply to an informal hearing under this section unless the Board orders that such procedures shall apply.

(ii) The informal hearing shall be recorded, and a transcript shall be furnished to the bank upon and payment of the cost thereof. Witnesses need not be sworn, unless specifically requested by a party or the presiding officer(s). The presiding officer(s) may ask questions of any witness.

(iii) The presiding officer(s) may order that the hearing be continued for a reasonable period (normally five business days) following completion of oral testimony or argument to allow additional written submissions to the hearing record.

(8) *Recommendation of presiding officers.* Within 20 calendar days following the date the hearing and the record on the proceeding are closed, the presiding officer(s) shall make a recommendation to the Board on the reclassification.

(9) *Time for decision.* No later than 60 calendar days after the date the record is closed or the date of the response in a case where no hearing was requested, the Board will decide whether to reclassify the bank and notify the bank of the Board's decision.

(b) *Procedures for reclassifying a state member bank based on unsafe and unsound practice.*—(1) *Issuance of notice of proposed reclassification.* If the Board determines to reclassify a well capitalized state member bank as adequately capitalized or to require an adequately capitalized or undercapitalized state member bank to comply with supervisory actions as if it were in the next lower capital category pursuant to section 38(g) of the FDI Act and § 208.33(c)(2) of Regulation H (12 CFR 208.33(c)(2)) because the Board deems the bank to be engaging in an unsafe or unsound practice (each of the foregoing referred to hereinafter as a "reclassification"), the Board will issue and serve on the bank a written notice of the Board's intention to reclassify the bank.

(2) *Contents of notice.* A notice of intention to reclassify a bank will include:

(i) A statement of the bank's capital measures and capital levels and the category to which the bank would be reclassified;

(ii) The reasons for reclassification of the bank;

(iii) The date by which the bank subject to the notice of reclassification may file with the Board a written appeal of the proposed reclassification, which shall be at least 14 calendar days from the date of service of the notice unless the Board determines that a shorter period is appropriate in light of the financial condition of the bank or other relevant circumstances.

(3) *Response to notice of proposed reclassification based on unsafe and unsound practice.* A bank may file a written response to a notice of proposed reclassification issued under this subsection within the time period set by the Board. The response should include:

(i) An explanation of the steps taken by the bank to address the deficiency described in the notice of proposed reclassification or of the reasons that the reclassification is not otherwise appropriate;

(ii) Any other relevant information, mitigating circumstances, documentation, or other evidence in support of the position of the bank or company regarding the reclassification.

(4) *Faiure to file response.* Failure by a bank to file, within the specified time period, a written response with the Board to a notice of proposed reclassification under this subsection shall constitute a waiver of the opportunity to respond and shall constitute consent to the reclassification.

(5) *Board consideration of response.* After considering the response, the Board may:

(i) Issue a written order to the bank reclassifying the bank to a different capital category as provided in section 38(g) of the FDI Act;

(ii) Determine not to reclassify the bank and so notify the bank; or

(iii) Seek additional information or clarification of the response from the bank or company, or any other relevant source.

(c) *Request for rescission of reclassification.* Any bank that has been reclassified under this section, may, upon a change in circumstances, request in writing that the Board reconsider the reclassification, and may propose that the reclassification be rescinded and that any directives issued in connection with that reclassification be modified, rescinded, or removed. Unless otherwise ordered by the Board, the bank shall remain subject to the reclassification and to any directives issued in connection with that reclassification while such request is pending before the Board.

§ 263.203 Order to dismiss a director or senior executive officer.

(a) *Service of notice.* When the Board issues and serves a directive on a state member bank pursuant to § 263.201 requiring the bank to dismiss from office any director or senior executive officer under section 38(f)(2)(F)(ii) of the FDI Act, the Board will also serve a copy of the directive, or the relevant portions of the directive where appropriate, upon the person to be dismissed.

(b) *Response to directive.* A director or senior executive officer who has been served with a directive under paragraph (a) of this section ("Respondent") may file a written request for reinstatement. The request for reinstatement must be filed within 10 calendar days of the receipt of the directive by the Respondent, unless further time is allowed by the Board at the request of the Respondent. The request for reinstatement should include reasons why the Respondent should be reinstated, and may request an informal hearing before the Board or its designee under this section. If the Respondent desires to present oral testimony or witnesses at the hearing, the Respondent must include a request to do so with the request for an informal hearing. The request to present oral testimony or witnesses shall specify the names of the witnesses and the general nature of their expected testimony. Failure to request a hearing shall constitute a waiver of any right to a hearing and failure to request the opportunity to present oral testimony or witnesses shall constitute a waiver of any right or opportunity to present oral testimony or witnesses. Unless otherwise ordered by the Board, the dismissal shall remain in effect while a

request for reinstatement made under this section is pending.

(c) *Order for informal hearing.* Upon receipt of a timely written request from a Respondent for an informal hearing on the portion of a directive requiring a bank to dismiss from office any director or senior executive officer, the Board shall issue an order directing an informal hearing to commence no later than 30 days after receipt of the request, unless the Respondent requests a later date. The hearing shall be held in Washington, D.C., or at such other place as may be designated by the Board, before a presiding officer(s) designated by the Board to conduct the hearing.

(d) *Hearing procedures.* (1) A Respondent may appear at the hearing personally or through counsel. A Respondent shall have the right to introduce relevant written materials and to present oral argument. A Respondent may introduce oral testimony and present witnesses only if expressly authorized by the Board or the presiding officer(s). Neither the provisions of the Administrative Procedure Act governing adjudications required by statute to be determined on the record nor the Uniform Rules of Practice and Procedure in subpart A of this part apply to an informal hearing under this section unless the Board orders that such procedures shall apply.

(2) The informal hearing shall be recorded, and a transcript shall be furnished to the Respondent upon request and payment of the cost thereof. Witnesses need not be sworn, unless specifically requested by a party or the presiding officer(s). The presiding officer(s) may ask questions of any witness.

(3) The presiding officer(s) may order that the hearing be continued for a reasonable period (normally five business days) following completion of oral testimony or argument to allow additional written submissions to the hearing record.

(e) *Standard for review.* A Respondent shall bear the burden of demonstrating that his or her continued employment by or service with the bank would materially strengthen the bank's ability—

(1) To become adequately capitalized, to the extent that the directive was issued as a result of the bank's capital level or failure to submit or implement a capital restoration plan; and

(2) To correct the unsafe or unsound condition or unsafe or unsound practice, to the extent that the directive was issued as a result of classification of the bank based on supervisory criteria other than capital, pursuant to section 38(g) of the FDI Act.

(f) *Limitation on scope of review.* The level of capital or the capital category assigned to the state member bank with which a Respondent is associated shall not be subject to review in any proceeding under this section.

(g) *Recommendation of presiding officers.* Within 20 calendar days following the date the hearing and the record on the proceeding are closed, the presiding officer(s) shall make a recommendation to the Board concerning the Respondent's request for reinstatement with the bank.

(h) *Time for decision.* Not later than 60 calendar days after the date the record is closed or the date of the response in a case where no hearing has been requested, the Board shall grant or deny the request for reinstatement and notify the Respondent of the Board's decision. If the Board denies the request for reinstatement, the Board shall set forth in the notification the reasons for the Board's action.

§ 263.204 Enforcement of directives.

(a) *Judicial remedies.* Whenever a state member bank or company that controls a state member bank fails to comply with a directive issued under section 38, the Board may seek enforcement of the directive in the appropriate United States district court pursuant to section 8(i)(1) of the FDI Act.

(b) *Administrative remedies.* Pursuant to section 8(i)(2)(A) of the FDI Act, the Board may assess a civil money penalty against any state member bank or company that controls a state member bank that violates or otherwise fails to comply with any final directive issued under section 38 and against any institution-affiliated party who participates in such violation or noncompliance. The failure of a bank to implement a capital restoration plan required under section 38, subpart B of Regulation H (12 CFR part 208, subpart B), or this subpart, or the failure of a company having control of a bank to fulfill a guarantee of a capital restoration plan made pursuant to section 38(e)(2) of the FDI Act shall subject the bank or company to the assessment of civil money penalties pursuant to section 8(i)(2)(A) of the FDI Act.

(c) *Other enforcement action.* In addition to the actions described in paragraphs (a) and (b) of this section, the Board may seek enforcement of the provisions of section 38 or subpart B of Regulation H (12 CFR part 208, subpart B) through any other judicial or administrative proceeding authorized by law.

By order of the Board of Governors of the Federal Reserve System.

Dated: June 25, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-15307 Filed 6-26-92; 3:33 pm]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

RIN 0960-AD48

Time Limits for Disposition of Resources in the Supplemental Security Income Program

AGENCY: Social Security Administration, HHS.

ACTION: Proposed Rule.

SUMMARY: If an individual filing for supplemental security income (SSI) benefits has excess resources, section 1613(b) of the Social Security Act (the Act) permits the payment of SSI benefits on the condition that the individual disposes of the excess resources within a time period specified by the Secretary. The regulations currently state that, in order to receive these "conditional benefits," the individual must agree in writing to dispose of the resources within 9 months (for real property) and 3 months (for personal property). The regulations are not clear as to when the time period for disposal of the property begins. We are proposing a rule to change the regulations to clarify that the time period for disposal of property begins on the date we accept the individual's signed written agreement to dispose of the property.

DATES: To be sure that your comments are considered, we must receive them no later than August 31, 1992.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21235, or delivered to 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 965-1762.

SUPPLEMENTARY INFORMATION: Section 1613(b) of the Act requires the Secretary to prescribe the period of time and the manner in which resources must be disposed of, to be excluded in determining SSI eligibility. The Act permits payment of SSI benefits during this period on the condition that the individual dispose of the resources. Any benefits so paid are considered overpayments which must be paid back.

Regulations at § 416.1240(a) provide that when an individual has excess nonliquid resources, such individual "shall not be eligible for payment except under the conditions provided in this section." One of those conditions, set out at § 416.1240(a)(2)(i), is that the individual must agree in writing to dispose of the excess nonliquid resources within the time period in § 416.1242 in order to receive "conditional benefits." Under § 416.1242(a), the individual must agree in writing to dispose of nonliquid resources which would otherwise result in SSI ineligibility within 9 months for real property and 3 months for personal property. The time limit for disposing of personal property may be extended 3 months for "good cause."

Further, § 416.1242(a) provides that the disposition period will begin on the date the written agreement is signed by the individual and submitted to the Social Security Administration. In the case of an individual who is disabled, the regulations provide that the disposition period will begin "with the date the individual is determined to be disabled." In § 416.1002, we define the term "disability" to mean disability or blindness as defined in sections 1614(a)(2) and (3) of the Act. Therefore, in an SSI claim based on blindness the disposition period would begin with the date we determine the individual to be blind.

The regulations at § 416.1242(a) are ambiguous as to the beginning of the resources disposal time limit. As written, the regulations do not preclude the commencement of a conditional benefits period prior to the month in which we determine that all nonresource requirements are met, nor do the regulations define the point at which we determine an individual to be disabled or blind.

Current regulations at § 416.1242(a) can be interpreted to mean that an individual may sign a conditional benefits agreement, and thus trigger the disposition period, before we determine whether all SSI eligibility requirements are met, other than resource requirements. Such an interpretation could create a situation where the individual might sell his or her property in anticipation of receipt of SSI benefits and later be determined not to be eligible for SSI for reasons other than resources, and, therefore, ineligible for conditional benefits.

In addition, in a SSI disability or blindness case, the regulations also can be interpreted to mean that the time limit for disposition of property begins on the actual date we determine the individual to be disabled or blind. This interpretation would place an illogical burden on the individual by requiring him or her to begin efforts to sell property before the individual receives notice of the disability/blindness determination and before we determine that the individual meets all other factors of eligibility, for example, the income requirements.

To address this issue, we propose to revise § 416.1242(a) to indicate that the time period for disposal of property begins on the date we accept the individual's signed written agreement. If we receive a signed agreement on or after the date we have determined that the individual meets the eligibility requirements described in § 416.202, with the exception of the resource requirements, our acceptance of the written agreement will occur on the date the individual receives our written notice that the agreement is in effect. The proposed rules will further state that if we receive a signed agreement prior to the date we determine that all nonresource requirements are met, our acceptance of the written agreement will not occur until the date the individual receives our written notice that all nonresource requirements are met and the agreement is in effect. When the written notice is mailed to the individual, we assume that the notice was received 5 days after the date shown on the notice unless the individual shows us that he or she did not receive it within the 5-day period.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 since the costs are expected to be less than $100 million, and the threshold criteria for a major rule are not otherwise met. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

This regulation imposes no new reporting or recordkeeping requirements subject to Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities because it affects only individuals and States. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 93.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated January 7, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: March 3, 1992.

Louis W. Sullivan,

Secretary of Health and Human Services.

Part 416 of chapter III of title 20 of the Code of Federal Regulations is amended as follows:

PART 416—[AMENDED]

1. The authority citation for subpart L of part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154.

2. Section 416.1242 is amended by revising paragraph (a) to read as follows:

§ 416.1242 Time limits for disposing of resources.

(a) In order for payment conditioned on the disposition of nonliquid resources to be made, the individual must agree in writing to dispose of real property within 9 months and personal property within 3 months. The time period for disposal of property begins on the date we accept the individual's signed written agreement to dispose of the property. If we receive a signed agreement on or after the date we have determined that the individual meets the eligibility requirements described in § 416.202 of this part, with the exception of the resource requirements described in this subpart, our acceptance of the written agreement will occur on the date the individual receives our written notice that the agreement is in effect. If we receive a signed agreement prior to the date we determine that all

nonresource requirements are met, our acceptance of the written agreement will not occur until the date the individual receives our written notice that all nonresource requirements are met and that the agreement is in effect. When the written notice is mailed to the individual, we assume that the notice was received 5 days after the date shown on the notice unless the individual shows us that he or she did not receive it within the 5-day period.

* * * * *

[FR Doc. 92-15249 Filed 6-30-92; 8:45 am]
BILLING CODE 4190-29-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[INTL-0018-92]

RIN 1545-AQ55

Earnings and Profits of Foreign Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed Income Tax Regulations relating to computing the earnings and profits of foreign corporations. The regulations are necessary to reduce the administrative burdens associated with making these computations and would affect foreign corporations and their United States shareholders.

DATES: Comments and requests for a public hearing must be received by August 31, 1992.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attention: CC:CORP:T:R (INTL-0018-92), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Margaret Hogan of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:CORP:T:R (INTL-0018-92) (202-566-6795, not a toll free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

While the simplified method for computing earnings and profits contained in the proposed regulations may result in accounting method changes that ordinarily would trigger certain reporting requirements, proposed regulation § 1.964-1(c)(1)(v) waives any Form 3115 filing requirements if its conditions are met. Therefore, no collection of information is required by the proposed regulation. However, the waiver of this collection requirements has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on this matter should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer T:FP, Washington, DC 20224.

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under sections 964 and 952 of the Internal Revenue Code of 1986. These amendments are proposed to simplify the requirements of § 1.964-1 relating to the earnings and profits of foreign corporations and to provide clarifying references within § 1.952-2 relating to the taxable income of foreign corporations for purposes of subpart F.

Explanation of Provisions

These proposed regulations would simplify the computation of earnings and profits (E&P) of foreign corporations by largely eliminating required book-to-tax adjustments attributable to depreciation and to the uniform capitalization rules of section 273A. Section 964(a) provides broad regulatory authority for the Secretary to prescribe rules for computing E&P that are substantially similar to those applicable to domestic corporations. The regulations under section 964 generally provide that E&P of a foreign corporation shall be computed by preparing a profit and loss statement from the corporation's books and making material adjustments necessary to conform such statement to United States financial and tax accounting principles. The current regulations governing tax accounting adjustments expressly require that inventories be accounted for in accordance with the provisions of sections 471 and 472, which incorporate the uniform capitalization rules of section 263A. The regulations also require that depreciation be computed in accordance with section 167.

Taxpayers have suggested that maintaining separate inventory and depreciation accounts for U.S. tax and financial accounting purposes is unduly burdensome and that use of a single set of accounts would reduce the compliance burden without a significant revenue effect. On this basis, proposed § 1.964-1(c)(1)(ii)(B) provides that inventories shall be taken into account in accordance with the provisions of sections 471 and 472, except that nothing in section 263A shall require capitalization of inventory costs in excess of those required to be capitalized under U.S. generally accepted accounting principles (GAAP). This change is intended to permit increased reliance on the taxpayer's method of accounting for inventories for financial accounting purposes.

In addition, proposed § 1.964-1(c)(1)(iii)(D) provides that taxpayers may use GAAP recovery methods and useful lives in computing depreciation adjustments for a foreign corporation deriving less than 20 percent of its gross income from U.S. sources. Proposed § 1.964-1(c)(1)(iii)(D) also provides that the basis of depreciable assets shall be determined under U.S. tax accounting principles unless the asset's tax basis is not materially different from its U.S. financial book basis, in which case the book basis may be used. Thus, generally, a "purchase or "push down" accounting method may not be used to determine asset basis with respect to an acquired foreign corporation. In addition, where a section 338 election is made with respect to an acquired foreign corporation, or where the consistency rules of section 338 apply, generally, asset basis is to be determined under the rules of section 338(b). Comments are requested on whether the application of GAAP recovery methods and useful lives will simplify depreciation computations in cases where tax basis must be used.

There is no comparably broad regulatory authority to modify domestic rule applicable in computing taxable income of a foreign corporation for purposes of subpart F or income effectively connected with a U.S. trade or business of a foreign corporation. Accordingly, no changes are proposed to the rules for making taxable income computations. Section 1.952-2(c)(2)(iv) would be amended to clarify that the cross-reference to § 1.964-1(c) does not incorporate the proposed amendments to the E&P rules relating to book-to-tax uniform capitalization and depreciation adjustments. See, however, Notice 88-104, 1988-2 C.B. 443, setting forth a simplified method of accounting for the costs required to be capitalized by foreign persons under section 263A.

Comments are invited on the extent to which the proposed regulations will achieve real burden reduction in light of the continuing requirement to compute taxable income in accordance with domestic rules.

The regulations are proposed to be effective for tax years beginning after December 31, 1991. Comments are invited on whether a later effective date would be appropriate to allow more time for taxpayers to revise their information gathering procedures. Application of the U.S. GAAP limitation on the capitalization of inventory costs and any change from tax to GAAP depreciation methods will constitute changes in methods of accounting for an existing foreign corporation. To provide greater simplification, a change from a tax to a GAAP useful life shall be accounted for as if it were part of the foreign corporation's change in method of accounting for depreciation, notwithstanding that § 1.446–1(e)(2)(ii)(*b*) provides that changes in useful lives are not changes in accounting methods.

Under proposed § 1.964–1(c)(1)(v), the Commissioner's consent to the above accounting method changes is automatically granted with no Form 3115 (Application for Change in Accounting Method) filing requirements, provided the foreign corporation properly takes the net adjustments required under section 481(a) into account in determining E&P ratably over (generally) six taxable years, beginning with the required year of change. The net adjustment required, for example, under section 481(a) upon the change from tax to GAAP recovery methods and useful lives is computed by redetermining the adjusted bases of depreciable assets as of the beginning of the first tax year beginning after December 31, 1991, as if the corporation had always used GAAP methods and useful lives, and comparing the redetermined adjusted bases with the adjusted bases of depreciable assets under methods and lives previously used by the corporation.

The Service is considering a number of issues in connection with this proposal, including whether it would be useful to define more specifically when an adjustment will be treated as material and to clarify the treatment of statutory E&P rules applicable to foreign corporations (such as section 404A); what requirements must be met in order for taxpayers to rely on separate company financial statements for E&P purposes; and whether in particular cases the proposed regulations create a distortion between the treatment of foreign and domestic subsidiaries that is so significant as to require adjustment. Taxpayers are invited to comment on these matters and also to identify other specific adjustments that are particularly burdensome to compute but unlikely in general to involve material amounts. The Service also solicits suggestions on other approaches to reduce administrative burdens relating to required computations involving foreign subsidiaries.

Special Analysis

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Request for Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are timely submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing will be held upon written request by any person who submits written comments on the proposed rules. Notice of the time, place, and date for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Margaret Hogan of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and Treasury Department participated in developing the regulations.

List of Subjects

26 CFR 1.951–1 Through 1.964–5

Income taxes, Reporting and recordkeeping requirements, United States investments abroad.

Proposed Amendment to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority citation for part 1 continues to read in part:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.952–2(c)(2)(iv) is revised to read as follows:

§ 1.952–2 Determination of gross income and taxable income of a foreign corporation.

* * * * *

(c) * * *

(2) * * *

(iv) *Tax accounting methods.* The tax accounting methods to be employed are those established or adopted by or on behalf of the foreign corporation under § 1.964–1(c), except that the provisions of paragraphs (c)(1)(ii)(B) and (c)(1)(iii)(D) of this section shall not apply in determining the gross income or the taxable income of the foreign corporation. Thus, such accounting methods must be consistent with the manner of treating inventories, depreciation, and elections referred to in § 1.964–1(c)(1) (ii)(A), (iii) (A) through (C) and (iv) and used for purposes of such paragraphs; however, if, in accordance with § 1.964–1(c)(6), a foreign corporation receives foreign base company income before any elections are made or before an accounting method is adopted by or on behalf of such corporation under § 1.964–1(C)(3), the determinations of whether an exclusion set forth in section 954(b) applies shall be made as if no elections had been made and no accounting method had been adopted.

Par. 3. Section 1.964–1 is amended by:

1. Revising paragraph (c)(1) (ii) and (iii) as set forth below.

2. Adding paragraph (c)(1)(v) immediately after paragraph (c)(1)(iv) and before the concluding text to read as set forth below.

§ 1.964–1 Determination of the earnings and profits of a foreign corporation.

* * * * *

(c) * * *

(1) * * *

(ii) *Inventories*—(A) *Pre-1992 years.* Inventories shall be taken into account in accordance with the provisions of sections 471 and 472 and the regulations under those sections.

(B) *Post-1991 years.* For taxable years beginning after December 31, 1991,

inventories shall be taken into account in accordance with paragraph (c)(1)(ii)(A) of this section, except that nothing in section 263A and the regulations under that section shall require the capitalization of inventory costs in excess of those required to be capitalized in keeping the taxpayer's books and records prepared in accordance with United States generally accepted accounting principles and used for purposes of reflecting in its financial statements the operations of its foreign affiliates.

(iii) *Depreciation.* Depreciation shall be computed as follows:

(A) For any taxable year beginning before July 1, 1972, depreciation shall be computed in accordance with section 167 and the regulations under that section.

(B) If, for any taxable year beginning after June 30, 1972, 20 percent or more of the gross income from all sources of the corporation is derived from sources within the United States, then depreciation shall be computed in accordance with the provisions of § 1.312–15.

(C) If, for any taxable year beginning after June 30, 1972, less than 20 percent of the gross income from all sources of the corporation is derived from sources within the United States, then depreciation shall be computed in accordance with section 167 and the regulations under that section.

(D) Except as otherwise provided in paragraph (c)(1)(iii)(B) of this section and notwithstanding paragraph (c)(1)(iii)(C) of this section, for taxable years beginning after December 31, 1991, depreciation shall be computed with respect to assets depreciable under section 167 and the regulations under that section using recovery methods, conventions, and useful lives established on the taxpayer's books and records prepared in accordance with United States generally accepted accounting principles and used for purposes of reflecting in its financial statements the operations of its foreign affiliates (United States books). The depreciable basis of an asset shall be determined under United States tax accounting principles unless such basis does not differ materially in amount from basis established on the taxpayer's United States books, in which case the United States book basis may be used. Thus, generally, a "push-down" or "purchase" method of accounting may not be used in determining the basis of assets of an acquired foreign corporation. In addition, where a section 338 election has been made with respect to an acquired foreign corporation, or where the consistency rules of section 338 apply, asset basis generally shall be determined in accordance with section 338 and the regulations under that section.

* * * * *

(v) *Post-1991 change in method of accounting.* Application of paragraphs (c)(1)(ii)(B) and (c)(1)(iii)(D) of this sectionmay result in changes in the foreign corporation's methods of accounting. In determining whether the application of paragraph(c)(1)(iii)(D) of this section results in a change in method of accounting, a change from tax to financial book useful life shall be accounted for under this section as if it were part of the change in method of accounting for depreciation, notwithstanding that § 1.446–1(e)(2)(ii)(*b*) would provide otherwise. Under the Commissioner's authority in section 446(e) and § 1.446–1(e), consent to the changes in methods of accounting arising from the application of paragraphs (c)(1)(ii)(B) and (c)(1)(iii)(D) of this section is granted with no required filing of a Form 3115 (Application for Change in Accounting Method), provided the corporation makes the changes in its first taxable year beginning after December 31, 1991, and properly takes the net adjustments required under section 481(a) into account in determining earnings and profits ratably over six taxable years, beginning with the required year of change, or any applicable shorter period prescribed in section 8 of Rev. Proc. 92–20, 1992–12 I.R.B. 10 (copies of which may be obtained from the U.S. Government Printing Office, Superintendent of Documents, Washington, DC 20402).

* * * * *

Shirley D. Peterson,

Commissioner of Internal Revenue.

[FR Doc. 92–15366 Filed 6–30–92; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 301

[IA–003–89]

RIN 1545–AN02

Exhaustion of Administrative Remedies; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the deposit of Federal employment taxes (including railroad retirement taxes).

DATES: The public hearing originally scheduled for Wednesday, July 8, 1992, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–377–9232, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6302 of the Internal Revenue Code and section 226 of the Railroad Retirement Solvency Act of 1983. A notice of public hearing appearing in the **Federal Register** for Friday, May 8, 1992 (57 FR 19831), announced the public hearing on the proposed regulations would be held on Wednesday, July 8, 1992, beginning at 10 a.m., in the Internal Revenue Service Commissioner's Conference Room, room 3313, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC.

The public hearing scheduled for Wednesday, July 8, 1992 has been cancelled.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92–15367 Filed 6–30–92; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 10

[Docket No. 920539–2139]

RIN 0651–AA51

Revision of Patent Cooperation Treaty Provisions

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Patent and Trademark Office (Office) proposes (1) to amend the rules of practice relating to applications filed under the Patent Cooperation Treaty (PCT) in accordance with revised regulations under the PCT; (2) to bring the rules regarding applications entering the national stage under 35 U.S.C. 371 more in line with existing regulations applicable to national applications filed under 35 U.S.C. 111; and (3) to clarify existing practice under the PCT. The proposed changes will result in more streamlined and simplified procedures for filing and prosecuting international and national stage applications under the PCT.

DATES: Written comments must be submitted on or before July 31, 1992.

ADDRESSES: Address written comments to the Commissioner of Patents and Trademarks, Box PCT, Washington, DC 20231, Attention: Vincent Turner, CP–6, room 1205 or by Fax to (703) 305–8825.

FOR FURTHER INFORMATION CONTACT: Vincent Turner by telephone at (703) 305–3174 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Box PCT, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: This proposed rule change will improve filing and processing procedures for applicants both in the filing of international applications and in the filing of national stage applications under 35 U.S.C. 371.

During the first 14 years under the PCT, the annual volume of international patent applications filed in the U.S. Receiving Office has increased from just under 100 to almost 10,000 in fiscal year 1991. The volume of U.S. national stage applications has shown similar growth to the point that the U.S. is now designated more than 10,000 times each year by applicants filing international applications under the PCT. Historically, approximately 60% of those applicants that designate the U.S. enter the national stage in the United States.

On July 8 to 12, 1991, representatives of the patent offices of the member countries, in a series of meetings held in Geneva, Switzerland, agreed upon several changes to the PCT regulations which are designed to make the PCT more user-friendly. These adopted changes require corresponding changes in title 37, CFR.

Under the present regulations, an applicant is required on filing the international application to specify all designations of countries, or regions of countries (regions), in which a patent is sought. Failure to designate a member country, or region, on filing, results in the loss of the right to file in the desired country, or region, using the benefits of the Treaty. The practice under the revised PCT regulations will permit an applicant to provide a generic designation of all PCT member countries and regions so that any intended designation which may have been overlooked on filing can be corrected within 15 months of the priority date.

International applications are searched and published prior to the 20-month deadline for entry into the national stage. If a demand for examination if filed before expiration of 19 months from the priority date, the time for entry into the national stage is extended to 30 months and the international application will be subject to preliminary examination under chapter II of the PCT. Under the present regulations preliminary examination may be based on an amendment which accompanies the demand. Amendments filed after the demand are not considered. The practice under the revised PCT regulations permits an applicant to indicate in the demand that preliminary examination is to be based on an accompanying Article 34 amendment and, if the amendment is not received with the demand, the applicant will be notified and given a time period within which to file the missing amendment. This new procedure will ensure that examination will go forward based on the desired Article 34 amendment.

Also, the Office is aware that certain applicants have had difficulty in properly filing national stage applications due to the different requirements in the rules for PCT and U.S. national applications. Some differences cannot be avoided due to different procedures required under the PCT from U.S. national practice. It is desirable, however, to minimize these differences and to simplify national stage filing procedures.

International applications have become abandoned for failure to timely provide an oath or declaration, a filing fee and/or an accurate translation. In national practice under 35 U.S.C. 111, if any of these items were not presented at the time of filing, a notice would be mailed to the applicant setting a period of time to provide the missing item(s) and to pay a fee. The proposed amendments to the rules governing entering the national stage will establish a greater degree of uniformity of practice and requirements for filing an application under 35 U.S.C. 111 and entering the national stage in an international application under 35 U.S.C. 371.

The proposal to amend §§ 1.494 and 1.495 would result in regulations much like the present § 1.53. The major exception would be that a notification of any missing parts in proposed sections 1.494 and 1.495 would only be mailed in those instances where the applicant has paid the national stage filing fee within 20 or 30 months from the priority date, depending on whether election of the U.S. under chapter II of the PCT has been made prior to 19 months. Paying the fee will give a clear indication to the Office that the applicant desires to enter the national stage and that a period of time should be set to supply any missing oath, declaration or translation. At the same time, the applicant will have the opportunity to inform the Office of the U.S. correspondence address. Thus, the Office will avoid unnecessary handling of approximately 40% of those applications that designate the U.S. but do not enter the national stage, and will be able to send a notice to a U.S. correspondence address in most cases.

Often at 20 or 30 months from the priority date, the only communication which has been received by the Office is a copy of the international application from the International Bureau with the address of the foreign attorney who represented the applicant in the international stage. The foreign attorney or agent may not be conversant in English or knowledgeable about U.S. practice, factors which often contribute to complicating the processing of applications. Thus, the proposed practice will have several advantages: (1) It will enable the applicant to identify the U.S. attorney or agent for correspondence from the Office; (2) the Office, after a check of the national stage papers at 20 or 30 months, will mail a notice identifying any deficiencies and affording applicant a period for correction of those deficiencies; and (3) as in national practice under § 1.53, it will enable applicants to extend the period of time under § 1.136 for submission of a proper oath, declaration or translation.

The proposed changes to §§ 1.494 and 1.495 address the problems which have been most frequently encountered. By far, the greatest hurdle for entry into the national stage has been submission of the oath or declaration by the 22 or 32 month deadline. There is no opportunity for extension beyond 22 or 32 months. Similarly, submission of the translation within these time limits has posed a problem for many applicants. The proposed practice of notifying applicants of deficiencies and setting an extendable period of time for correction would allow applicants greater flexibility in the time for submission of these documents, thus avoiding the consequence of abandonment and potential loss of rights in the United States.

Discussion of Specific Rules

The following is a table correlating PCT Rule changes with proposed 37 CFR changes. Sections 1.431(b)(1), 1.431(b)(3)(ii), 1.451(a), 1.482(a)(2)(i), 1.492(e), 1.494 and 1.495, which are proposed to be amended, are not shown in the table because they are changes being proposed that are not required by PCT rule changes.

RULE CORRELATION TABLE

37 CFR change	PCT rule change
1.431(c)–(3)	16bis, 27.1
1.432(a)	4.1(b(iv), 4.9
1.432(b)	5.5, 16bis
1.432(c)	15.5
1.434(a)	3.1
1.445(a)(4)	15.5
1.446(d)	15.6, 16.2
1.446(e)	57.6
1.455(a)	90, 2.2bis
1.475	13
1.476(a)	13
1.480(b)	53.1
1.482(b)	57.5
1.484(b)	60.1(g), 66, 69.1
1.485	60.1(g)
1.487	13
1.488(a)	13
1.499	13
1.821(h)	13ter.1(c)
10.9(c)	90

Section 1.431(b)(1), if amended as proposed, would clarify that, for an international filing date to be accorded, at least one applicant (rather than all applicants) must be a resident or national of the United States and the papers as filed must so indicate. The only way the United States Receiving Office can determine whether, as required by Article 11, "the applicant does not obviously lack" the requisite residence or nationally is by inspection of the papers as filed. Accordingly, in order to be accorded an international filing date by the U.S. Receiving Office, the papers must indicate a U.S. residency or nationality of at least one applicant.

Section 1.431(b)(3)(ii), if amended as proposed, would add a cross-reference to § 1.432 which sets forth the requirements regarding designations.

Section 1.431(c), if amended as proposed, would reflect that the United States Receiving Office, rather than the International Bureau, will be responsible for collecting fees not paid in full at the time of filing the international application or within one month thereafter. These fees are not new. The proposed change merely reflects that the Receiving Office, rather than the International Bureau, will be responsible for communicating deficiency notices to the applicant. Under the procedure proposed in paragraph (c), a notice of any fee deficiency will be mailed by the Receiving Office setting a time period of one month for payment of the fee deficiency and a late payment fee equal to the greater of (1) 50% of the amount of the deficient fees up to a maximum amount equal to the basic fee, or (2) an amount equal to the transmittal fee. The time period of one month for response to this notice cannot be extended.

Section 1.431(d), if amended as proposed, will be eliminated as unnecessary since the United States Receiving Office will take over the responsibility for collecting fees in place of the International Bureau.

Section 1.431(e), if amended as proposed, would be redesignated as § 1.431(d) and would clarify that the failure to timely pay the fees pursuant to paragraph (c) will result in the withdrawal of the international application.

Section 1.432(a), if amended as proposed, would clarify that the applicant must specify, on filing, at least one state or region in order to be granted a filing date for the international application. This specific designation is required whether or not all designations are indicated pursuant to paragraph (c) of this section. The reference to section 201 of the Administrative Instructions is proposed to be changed to section 115 to correspond to the change in the Administrative Instructions.

Section 1.432(b), if amended as proposed, would establish a procedure for the late payment of fees for designations that were specified on filing an international application, and a procedure, pursuant to PCT rule 16bis.1(c), in accordance with section 321 of the PCT Administrative Instructions for allocating fees, where the amount paid is insufficient to cover all the fees. The payment of the designation fees with a late payment fee is now new. Under the revised PCT regulations, however, the Receiving Office, rather than the International Bureau, will be responsible for communicating deficiency notices to the applicant. The designation fees may be paid, without necessity for a late payment fee, within one year from the priority date or within one month from the date of receipt of the international application if that month expires after the expiration of one year from the priority date. As proposed the applicant would be notified and given one month within which to pay any deficient designation fees plus a late payment fee. The amount of the late payment fee is equal to 50% of the deficient fees, but will not be less than the amount of the transmittal fee (currently $190) and will not exceed the amount of the basic fee (currently $525). The one-month time limit for payment of the deficient designation fees and late payment fee may not be extended. If, after expiration of the one-month time period, at least one designation fee has not been paid (with any late payment fee which is due), the international application will be withdrawn. If, after expiration of the one-month time period, at least one designation fee has been paid (with any late payment fee which is due) but the amount paid is not sufficient to cover all the designation fees or late payment fee, the amount paid will be allocated, pursuant to PCT rule 16bis.1(c), in accordance with section 321 of the Administrative Instructions. Section 321 of the Administrative Instructions provides that the amount will be allocated in accordance with any instructions received from the applicant or, if no instructions have been received, in the order in which the designations appear in the request part of the international application. Unpaid designations will be withdrawn.

Section 1.432(c), if added as proposed, would establish a procedure wherein, in addition to the designation(s) under paragraph (a), the applicant could indicate, on filing, all designations permitted under the Treaty and confirm desired designations of countries or regions up to 15 months from the priority date. The confirmation must include both a written notice of the countries or regions being confirmed, the appropriate designation fees and a confirmation fee based on the number of countries or regions being confirmed. If the amount of the fees is insufficient, the Receiving Office will allocate the amount paid in accordance with any priority of designations specified by the applicant or, if no priority is specified, in accordance with section 321 of the Administrative Instructions. A notice reminding applicant of the 15-month deadline will not be provided. Unconfirmed designations will be considered withdrawn.

Section 1.434, if amended as proposed, would allow applicants to develop their own computer-generated Request form so long as the forms comply with the requirements of sections 102(h) and (i) of the Administrative Instructions. Printed Request forms will continue to be available from the United States Patent and Trademark Office.

Section 1.445(a)(4), if added as proposed, would define the confirmation free required for the designations confirmed under § 1.432(c). The confirmation fee is equal to 50% of the sum of the designation fees for the designations being confirmed. For example, a confirmation of four additional designations (at $127 per designation, or $508) would require a $254 confirmation fee. The total amount of the fees due would be $762, which is the sum of $500 and $254.

Section 1.446(d), if amended as proposed, would clarify that the international and search fees may be refunded under certain circumstances linked to whether the record copy or search copy has been transmitted to the International Bureau or International Searching Authority, respectively. The transmittal fee will not be refunded, but will be retained to cover Office processing costs. If the record copy or search copy has been transmitted, the Receiving Office cannot refund or authorize the refund of the international or search fees. Any request for a refund filed after the record copy or search copy has been transmitted should be directed to the International Bureau (for the international fee) or the International Searching Authority (for the international search fee) for consideration of whether a refund should be made.

Section 1.446(e), if added as proposed, would indicate that a refund of the handling fee by the International Preliminary Examining Authority is permitted only in the situations where the demand is considered not to have been submitted or upon withdrawal of the demand before the demand has been sent to the International Bureau. If the demand has been sent to the International Bureau, requests for refund of the handling fee should be directed to the International Bureau.

Section 1.451(a), if amended as proposed, would clarify that in order to be entitled to the priority of a previously filed application, the priority claim must be made in the international application papers as filed. The right to priority is not necessarily lost if the claim is not on the Request per se, but will be lost if the claim does not appear in the papers presented on filing of the application.

Section 1.445(a), if amended as proposed, would clarify that the term "common representative" means an applicant appointed as the representative of the other applicants. The paragraph would also clarify who can represent applicants in an international application before the U.S. International Searching Authority or the U.S. International Preliminary Examining Authority, e.g., (1) an attorney or agent registered to practice before the Office, and (2) an attorney or agent not registered to practice before the Office, but authorized to practice before the national office with which the international application was filed and for which the United States is an International Searching Authority or International Preliminary Examining Authority. In the latter case, representation is restricted to practicing before the U.S. International Searching Authority and/or the U.S. International Preliminary Examining Authority. For example, if an international application is filed in the Brazilian Patent Office, an agent authorized to practice before the Brazilian Patent Office may prosecute that application before the U.S. International Searching Authority or the U.S. International Preliminary Examining Authority. Paragraph (a) would also provide that, unless otherwise indicated, the appointment of an attorney or agent revokes any earlier appointment as specified in PCT Rule 90.6(b).

Section 1.475, if amended as proposed, would adopt the unity of invention principles of PCT Rule 13, as amended. Section 1.475 is further proposed to be amended to reflect that the same unity of invention principles are applied by the international searching and preliminary examining authorities and during the national stage. Duplicative provisions in §§ 1.487 and 1.499 are proposed to be deleted.

The principles of unity of invention are used to determine the types of claimed subject matter and the combinations of claims to different categories of invention that are permitted to be included in a single international or national stage patent application. The basic principle is that an application should relate to only one invention or, if there is more than one invention, that applicant would have a right to include in a single application only those inventions which are so linked as to form a single general inventive concept.

Section 1.475(a), if amended as proposed, would contain both the definition of the requirement for unity of invention, and the unity of invention criteria that must be satisfied, where a group of inventions is claimed, in order to have a right to include multiple inventions in a single application. A group of inventions is linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. The expression "special technical features" is defined as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art. For example, a compound is the common technical feature in an application claiming (1) the compound per se, (2) a method of making the compound and (3) a method of using the compound. A corresponding technical feature is exemplified by a key defined by certain claimed structural characteristics which correspond to the claimed features of a lock to be used with the claimed key.

Section 1.475(b), if amended as proposed, defines several combinations of different categories of claims which always fulfill the unity of invention requirements of § 1.475(a) where the same or corresponding special technical feature is claimed. There may be other combinations of different categories of claims which fulfill the requirement for unity of invention, but the determination of unity must be made under § 1.475(a), not § 1.475(b).

As proposed in § 1.475(b), a process is "specially adapted" for the manufacture of a product if the claimed process inherently produces the claimed product with the technical relationship defined in § 1.475(a) being present between the claimed process and the claimed product. The expression "specially adapted" as used in this section does not imply that the product could not also be manufactured by a different process, nor does it imply that the same kind of process of manufacture could not also be used for the manufacture of other products.

As proposed in § 1.475(b), an apparatus or means is "specifically designed" for carrying out the process when the apparatus or means is suitable for carrying out the process with the technical relationship defined in § 1.475(a) being present between the claimed apparatus or means and the claimed process. The expression "specifically designed" does not imply that the apparatus or means could not be used for carrying out another process, nor does it imply that the process could not be carried out using an alternative apparatus or means.

Section 1.475(c), if amended as proposed, would require that unity of invention might not be present if a combination of categories of invention different from those described in § 1.475(b) are presented in an application. The requirements of § 1.475(a) are always met by the combinations described in § 1.475(b) where the same or corresponding special technical feature is claimed. All other combinations must be tested against the unity of invention standard of § 1.475(a).

Section 1.475(d) is proposed to be amended by deleting reference to the different combinations of categories of invention that always meet the unity of invention standard (now set forth in proposed § 1.475(b)), and to make reference to the determination of the main invention where multiple products, processes of manufacture or uses are

claimed. The significance of determining the main invention is set forth in § 1.476(c).

Section 1.475(e), if amended as proposed, would require that the determination regarding unity of invention be made without regard to whether a group of inventions is claimed in separate claims or as alternatives within a single claim. The basic criteria for unity of invention are the same, regardless of the manner in which applicant chooses to draft a claim or claims.

Section 1.475(f) is proposed to be deleted since PCT Rule 13 has been amended and the basic principles of unity of invention are proposed to be incorporated into other portions of § 1.475.

Section 1.476(a), if amended as proposed, would delete the reference to § 1.475(f) (proposed to be deleted) and PCT Rule 13.

Section 1.480(b), if amended as proposed, would allow applicants to develop their own computer generated Demand form so long as the limitations in sections 102(h) and (i) of the Administrative Instructions are met. Printed Demand forms will continue to be available from the United States Patent and Trademark Office.

Section 1.482(a)(2)(i), if amended as proposed, would clarify that an additional preliminary examination fee may be charged for lack of unity in chapter II irrespective of whether there was a similar charge in chapter I. Normally there will be a charge for lack of unity both in chapter I and in chapter II. In some instances, although a charge for the search of an additional invention is justified in chapter I, the examiner chooses to proceed without charging for the search of the additional invention(s). However, circumstances may change (e.g. an amendment submitted with the Demand expanding the claims to the additional invention(s)) in chapter II so as to warrant the examiner's requirement for an additional fee for examination of the additional invention(s).

Section 1.482(b), if amended as proposed, would remove the reference to the supplement to the handling fee which had been collected for the benefit of the International Bureau and which has been deleted from the PCT Regulations. At present, applicants must pay as many supplements to the handling fee as there are languages into which the elected Offices require translations of the international preliminary examination report. Under the new PCT Regulations, all countries will accept an English translation of the International preliminary examination report, thus limiting the International Bureau's translation costs. Accordingly, only one handling fee will need to be paid by the applicant, without any supplement, irrespective of the need for a translation of the report.

Section 1.484(b), if amended as proposed, would permit an applicant to indicate in the demand that international preliminary examination is to begin based on the application as amended rather than on the application as filed. If an Article 19 amendment is not received by the Office by 20 months from the priority date, preliminary examination will proceed. Where the demand indicates examination is to be based on an accompanying Article 34 amendment, but the Article 34 amendment has not been provided to the Office with the demand, the applicant will be notified and given a time period to submit the amendment. Thus, if the applicant wishes preliminary examination based on an amended version of the international application, the demand must so indicate and the amendment (Article 19 or 34) must (1) accompany the demand; or (2) in the case of an Article 19 amendment, be received by 20 months from the priority date; or (3) in the case of an Article 34 amendment, be submitted within the nonextendable time period set by the Office.

Section 1.485, if amended as proposed, would be consistent with proposed § 1.484 and would provide for amendments to be filed with the demand or within a time period set by the International Preliminary Examining Authority.

Section 1.487 is proposed to be removed as unnecessary because the proposed amendments to § 1.475 address the unity of invention principles to be applied by the International Preliminary Examining Authority.

Section 1.488(a), if amended as proposed, would replace the reference to § 1.487, which is proposed to be removed, with a reference to § 1.475.

Section 1.492(e), if amended as proposed, would eliminate the surcharge for filing the basic national fee after 20 or 30 months from the priority date. In accordance with the new practice under proposed §§ 1.494 and 1.495, the basic national fee must be filed no later than 20 months, or 30 months, if a timely election was filed, from the priority date in order to avoid abandonment of the application. If the new practice is adopted as proposed, a short transition period will be provided before the surcharge is eliminated to avoid any retroactive effect of the new practice.

Sections 1.494 and 1.495, if amended as proposed, would modify the practice for entering the national stage as a designated or elected office by more closely aligning it with national application practice under § 1.53.

Section 1.494(a), if amended as proposed, would clarify that absence of a Demand form is no longer the controlling event, but rather failure to elect the United States within 19 months of the priority date will trigger the time periods set forth in paragraphs (b) and (c) of this section.

Section 1.494(b), if amended as proposed, would clarify that the basic national stage filing fee and a copy of the international application must be filed with the Office by 20 months from the priority date to avoid abandonment. The International Bureau normally provides the copy of the international application to the Office in accordance with Article 20. At the same time, the International Bureau notifies the applicant of the communication to the Office. In accordance with PCT Rule 47.1, that notice shall be accepted by all designated offices as conclusive evidence that the communication has duly taken place. Thus, if the applicant desires to enter the national stage, the applicant normally need only check to be sure the notice from the International Bureau has been received and then pay the basic national stage filing fee by 20 months from the priority date. The 20-month time limit for submission of the basic national stage filing fee and a copy of the international application is not extendable.

Section 1.494(c), if amended as proposed, would provide that applicants who have provided the basic national stage filing fee and a copy of the international application by 20 months from the priority date but who omit a proper translation, oath or declaration will receive a notification setting a time period for submission of the omitted requirements. The time period set in the notice can be extended pursuant to § 1.136. Filing of the oath or declaration later than 20 months will require the payment of the surcharge set forth in § 1.492(e). Filing of the translation later than 20 months will require the payment of the processing fee set forth in § 1.492(f).

Section 1.494(d), if amended as proposed, would clarify the existing practice that Article 19 amendments must be submitted by 20 months from the priority date, which time may not be extended. Of course the failure to do so does not result in loss of the subject matter of the Article 19 amendments. The applicant may submit that subject matter in a preliminary amendment filed under § 1.121. In many cases, filing an

amendment under § 1.121 is preferable since grammatical or idiomatic errors may be corrected.

Section 1.494(g), if amended as proposed, would be removed in view of the proposed amendments to sections (b), (c) and (d).

Section 1.494(h), if amended as proposed, would be redesignated as § 1.494(g) and would specify when an application that fails to enter the national stage becomes abandoned. Abandonment occurs at 20 months from the priority date if the basic national stage filing fee and a copy of the international application have not been provided to the Office. If they have been provided to the Office within 20 months and the translation and/or oath or declaration are not filed timely, abandonment occurs upon expiration of the time limit set in the notification pursuant to paragraph (c). Thus, in the latter situation, abandonment would occur at the expiration of the time period set in the notice to file the missing translation, and/or oath or declaration.

Section 1.495(a), if amended as proposed, would clarify that the election of the U.S. need not be made in the Demand, but can be made subsequently if filed before expiration of 19 months from the priority date to start the time periods set forth in paragraphs (b) and (c) of this section.

Section 1.495(b), if amended as proposed, would clarify that the basic national fee and a copy of the international application must be filed with the Office by 30 months from the priority date to avoid abandonment. The International Bureau normally provides the copy of the international application to the Office in accordance with Article 20. At the same time the International Bureau notifies applicant of the communication to the Office. In accordance with PCT Rule 47.1, that notice shall be accepted by all designated offices as conclusive evidence that the communication has duly taken place. Thus, if the applicant desires to enter the national stage, the applicant normally need only check to be sure the notice from the International Bureau has been received and then pay the basic national fee by 30 months from the priority date. The 30-month time limit for submission of the basic national fee and copy of the international application is not expendable.

Section 1.495(c), if amended as proposed, would provide that applicants who have provided the basic national fee and a copy of the international application by 30 months from the priority date but who omit a proper translation, oath or declaration will receive a notification setting a time period for submission of the omitted requirements. The time period set in the notice can be extended pursuant to § 1.136. Filing of the oath or declaration later than 30 months will require the payment of the surcharge set forth in § 1.492(e). Filing of the translation later than 30 months will require the payment of the processing fee set forth in § 1.492(f).

Section 1.495(d), if amended as proposed, would clarify the existing and continuing practice that the Article 19 amendments must be submitted by 30 months from the priority date, which time may not be extended. The failure to do so will not result in loss of the subject matter of the Article 19 amendments. Applicant may submit that subject matter in a preliminary amendment filed under § 1.121. In many cases, filing an amendment under § 1.121 is preferable since grammatical or idiomatic errors may be corrected.

Section 1.495(e), if amended as proposed, would specify that a translation into English of any annexes to the international preliminary examining report which are not received by 30 months from the priority date may only be submitted within the time period set in paragraph (c) for submission of any omitted translation of the international application, or oath or declaration. If any required translation of the international application and oath or declaration have been provided to the Office by 30 months, a notice under paragraph (c) will not be sent, and if the translation of annexes is not submitted within 30 months, the annexes will be considered cancelled.

Section 1.495(h), if amended as proposed, would be removed in view of the proposed amendments to sections (b), (c), (d) and (e).

Section 1.495(i), if amended as proposed, would be redesignated as § 1.495(h) and would specify when an application that fails to enter the national stage becomes abandoned if the United States was elected prior to 19 months from the priority date. Abandonment occurs at 30 months from the priority date if the basic national stage filing fee and a copy of the international application have not been provided to the Office. If they have been provided to the Office within 30 months and the translation and/or oath or declaration are not filed timely, abandonment occurs upon expiration of the time limit set in the notification pursuant to paragraph (c). Thus, in the latter situation, abandonment would occur at the expiration of the time period set in the notice to file the missing translation, and/or oath or declaration.

Section 1.499 is proposed to be amended by removing paragraphs (a) through (e) because the proposed amendments to § 1.475 address the unity of invention principles to be applied in the national stage.

Section 1.821(h), if amended as proposed, would provide that if applicant fails to timely provide the required computer readable form, the United States International Searching Authority shall search only to the extent that a meaningful search can be carried out.

Section 10.9, if amended as proposed, would add a new paragraph (c) to be consistent with § 1.455, clarifying that an attorney or agent having the right to act before the national office with which the international application is filed may represent the applicant before the U.S. International Searching Authority or the U.S. International Preliminary Examining Authority. An individual who has the right to practice before the national office with which an international application is filed, and who is not registered under § 10.6, may not prosecute patent applications in the national stage in the Office.

Other Considerations

The proposed rule changes are in conformity with the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, Executive Orders 12291 and 12612, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule changes will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)), because the proposed rules would provide more streamlined and simplified procedures for filing and prosecuting international and national stage applications under the PCT. Thus, costs to all applicants using the PCT, including small entities, would be reduced.

The Patent and Trademark Office has determined that these proposed rule changes are not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers; individual industries; Federal, state or local government agencies; or geographic regions. There will be no significant adverse effects on competition, employment, investment,

productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Patent and Trademark Office has also determined that this notice has no federalism implications affecting the relationship between the National government and the States as outlined in Executive Order 12612.

These rule changes will not impose any additional burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The paperwork burden imposed by adherence to the PCT is currently approved by the Office of Management and Budget under control number 0651-0021.

Notice is hereby given that pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6, the Patent and Trademark Office proposes to amend title 37 of the Code of Federal Regulations as set forth below.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

37 CFR Part 10

Administrative practice and procedure, Inventions and patents, Lawyers, Reporting and recordkeeping requirements, Trademarks.

For the reasons set forth in the preamble, 37 CFR parts 1 and 10 are proposed to be amended as follows, with removals indicated by brackets ([ ]) and additions by arrows (<):

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 would continue to read as follows:

Authority: 35 U.S.C. 6 unless otherwise noted.

2. Section 1.431 is proposed to be amended by revising paragraphs (b) introductory text through (b)(3)(ii), (c), (d), and (e) to read as follows:

§ 1.431 International application requirements.

* * * * *

(b) An international filing date will be accorded by the United States Receiving Office, at the time of receipt of the international application, provided that:

(1) >At least one< [The] applicant >(§ 1.421)< is a United States resident or national >and the papers filed at the time of receipt of the international application so indicate< (35 U.S.C. 361(a), PCT Art. 11(1)(i)).

(2) The international application is in the English language (35 U.S.C. 361(c), PCT Art. 11(1)(ii)).

(3) The international application contains at least the following elements (PCT Art. 11(1)(iii)):

(i) An indication that it is intended as an international application (PCT Rule 4.2);

(ii) The designation of at least one Contracting State of the International Patent Cooperation Union >(§ 1.432)< ;

* * * * *

(c) Payment of the basic portion of the international fee (PCT Rule 15.2) and the transmittal and search fees (§ 1.445) may be made in full at the time the international application papers required by paragraph (b) of this section are deposited or within one month thereafter. >If the basic, transmittal and search fees are not paid within one month from the date of receipt of the international application, applicant will be notified and given one month within which to pay the deficient fees plus a late payment fee equal to the greater of (1) 50% of the amount of the deficient fees up to a maximum amount equal to the basic fee, or (2) an amount equal to the transmittal fee (PCT Rule 16bis). The one-month time limit set in the notice to pay deficient fees may not be extended.< [Failure to make full payment within one month of the deposit of the international application papers required by paragraph (b) of this section will result in the fees being charged to the International Bureau under the provision of paragraph (d) of this section and PCT Rule 16bis.]

(d) [The United States Receiving Office will charge to the International Bureau in accordance with PCT Rule 16bis and will consider as having been timely paid:

(1) The transmittal fee, the basic fee portion of the international fee, or the search fee where these fees have not been fully paid by the applicant within one month of the date of deposit of the international application,

(2) The designation fee, or the amount necessary to cover all the designations made in the request if not paid by the applicant within one year from the priority date or within one month from the date of receipt of the international application if that month expires after the expiration of one year from the priority date.

(e) The International Bureau will notify applicant of any amount charged under paragraph (d) of this section and invite the applicant to pay directly to the International Bureau within one month from the date of the notification, the amount charged, augmented by a surcharge of 50%, provided the surcharge will not be less, and will not be more, than the amounts indicated in the Schedule of Fees appended to the PCT Rules.] If the payment needed to cover the transmittal >fee< [fees], the basic fee, the search fee, one designation fee and the >late payment fee pursuant to paragraph (c) of this section< [surcharge] is not timely made [to the International Bureau], [the International Bureau will notify] the Receiving Office [which] will declare the international application withdrawn under PCT Article 14(3)(a). [If the applicant makes timely payment of the fees referred to in the previous sentence, but the amount paid is not sufficient to cover all the designation fees, the Receiving Office will declare any designation not paid withdrawn under PCT Article 14(3)(b) in accordance with PCT Rule 16bis.2(c).]

3. Section 1.432 is proposed to be amended by revising paragraphs (a) and (b) and adding new paragraph (c) to read as follows:

§ 1.432 Designation of States and payment of designation fees.

(a) The >designation of< [names of Designated] States >or Regions< shall appear in the >request< [Request] upon filing and must be indicated as set forth in >PCT Rule 4.9 and< Section >115< [201] of the Administrative Instructions. >Applicant must specify at least one national or regional designation on filing of the international application for a filing date to be granted.<

(b) >If the fees necessary to cover all the national and regional designations specified in the request are not paid by the applicant within one year from the priority date or within one month from the date of receipt of the international application if that month expires after the expiration of one year from the priority date, applicant will be notified and given one month within which to pay the deficient designation fees plus a late payment fee equal to the greater of (1) 50% of the amount of the deficient fees up to a maximum amount equal to the basic fee, or (2) an amount equal to the transmittal fee (PCT Rule 16bis). The one-month time limit set in the notification of deficient designation fees may not be extended.< [The designation fees may be paid upon filing of the international application, but must be paid before the expiration of one year from the priority date or within one month from the date of receipt of

the international application if that month expires after the expiration of one year from the priority date. Failure to timely pay the designation fee for a particular Designated State will result in the withdrawal of that designation.] Failure to timely pay at least one designation fee will result in the withdrawal of the international application. >The one designation fee may be paid (1) within one year from the priority date, (2) within one month from the date of receipt of the international application if that month expires after the expiration of one year from the priority date, or (3) with the late payment fee defined in this paragraph within the time set in the notification of the deficient designation fees. If after a notification of deficient designation fees the applicant makes timely payment, but the amount paid is not sufficient to cover the late payment fee and all designation fees, the Receiving Office will, after allocating payment for the basic, search, transmittal and late payment fees, allocate the amount paid in accordance with PCT Rule 16bis.1(c) and withdraw the unpaid designations. The notification of deficient designation fees pursuant to this paragraph may be made simultaneously with any notification pursuant to § 1.431(c).<

>(c) On filing the international application, in addition to specifying at least one national or regional designation, applicant may also indicate that all designations permitted under the Treaty are made. The latter indication is subject to confirmation (PCT Rule 4.9(c)) not later than the expiration of 15 months from the priority date by:

(1) Filing a written notice with the United States Receiving Office specifying the national and/or regional designations being confirmed;

(2) Paying the designation fee for each designation being confirmed; and

(3) Paying the confirmation fee specified in § 1.445(a)(4). Unconfirmed designations will be considered withdrawn. If the amount submitted is not sufficient to cover the designation fee and the confirmation fee for each designation being confirmed, the Receiving Office will allocate the amount paid in accordance with any priority of designations specified by applicant. If applicant does not specify any priority of designations, the allocation of the amount paid will be made in accordance with PCT Rule 16bis.1(c).<

4. Section 1.434 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.434 The request.

(a) The request shall be made on a standardized [printed] form (PCT Rules 3 and 4). Copies of [such] printed Request forms are available for the Patent and Trademark Office. Letters requesting [such] >printed< forms should be marked "Box PCT."

* * * * *

5. Section 1.445 is proposed to be amended by adding new paragraph (a)(4) to read as follows:

§ 1.445 International application filing, processing and search fees.

(a) * * *

>(4) A confirmation fee (PCT Rule 96) equal to 50% of the sum of designation fees for the national and regional designations being confirmed (§ 1.432(c)).<

* * * * *

6. Section 1.446 is proposed to be amended by revising paragraph (d) and adding paragraph (e) to read as follows:

§ 1.446 Refund of international application filing and processing fees.

* * * * *

(d) The international and search fees will be refunded if no international filing date is accorded >or if the application is withdrawn before transmittal of the record copy to the International Bureau< (PCT Rules 15.6 and 16.2). >The search fee will be refunded if the application is withdrawn before transmittal of the search copy to the International Searching Authority. The transmittal fee will not be refunded<.

>(e) The handling fee (§ 1.482(b)) will be refunded (PCT Rule 57.6) only if:

(1) The demand is withdrawn before the demand has been sent by the International Preliminary Examining Authority to the International Bureau, or

(2) The demand is considered not to have been submitted (PCT Rule 54.4(a)).<

7. Section 1.451 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.451 The priority claim and priority document in an international application.

(a) The claim for priority must be made >in< [on] the >request< [Request] (PCT Rule 4.10) in a manner complying with Sections 110 and 201 of the Administrative Instructions.

* * * * *

8. Section 1.455 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.455 Representation in international applications.

(a) Applicants of international applications may be represented by attorneys or agents licensed to practice before the Patent and Trademark Office or by >an applicant appointed as< a common representative PCT Art. 49, Rules 4.8 and 90 and § 10.10(a)). >An attorney or agent having the right to practice before a national office with which an international application is filed and for which the United States is an International Searching Authority or International Preliminary Examining Authority may be appointed to represent the applicants in the international application before that authority. An attorney or agent may appoint an associate attorney or agent who shall also then be of record (PCT Rule 90.1(d)). The appointment of an attorney or agent revokes any earlier appointment unless otherwise indicated (PCT Rule 90.6(b)).<

* * * * *

9. Section 1.475 is proposed to be revised to read as follows:

§ 1.475 Unity of invention before the International Searching Authority >, the International Preliminary Examining Authority and during the national stage<.

(a) >An international and a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among these inventions involving one ore more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.< [An international application before the International Searching Authority will be considered to have unity of invention if the claims are in accordance with PCT Rule 13 (see paragraph (f) of this section).]

(b) An international >or a national stage< application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the >following< combinations of categories >:< [as set forth in PCT Rule 13.2 (see paragraph (f) of this section) or to the combination of -]

(1) A product and a process >specially adapted< for the manufacture of said product >;< or

(2) A product and a process of use of said product[.] >; or

(3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or

(4) A process and a apparatus or means specifically designed for carrying out the said process; or

(5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.< [If an application contains claims to more or less than one of the combinations of categories set forth in PCT Rule 13.2 (see paragraph (f) of this section) or a combination set forth in paragraphs (b)(1) or (2) of this section, unity of invention may not be present.]

(c) >If an application contains claims to more or less than one of the combinations of categories of invention set forth in paragraph (b) of this section, unity of invention might not be present.< [If an international application contains claims to a category of invention in addition to those categories included in any one of the combinations specified in paragraph (b) of this section, lack of unity of invention may be held between the categories included in the combination and the claims to the additional category of invention.]

(d) [Unity of invention will exist where the claims are limited to one of the combinations of categories set forth in PCT Rule 13.2 (see paragraph (f) of this section) or in a combination set forth in paragraphs (b)(1) or (2) of this section.] If multiple products, processes of manufacture or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto will be considered as the >main invention in the claims, see PCT Article 17(3)(a) and § 1.476(c).< [inventions to be searched. Any such holding by the examiner will be made of record as a holding of lack of unity of invention.]

(e) >The determination whether a group of investions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.< [The inventions recited by the claims of different categories must be related rather than independent inventions.

(f) The wording of PCT Rule 13 is as follows:

"PCT Rule 13—Unity of Invention

13.1 Requirement

The international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention").

13.2 Claims of Different Categories

Rule 13.1 shall be construed as permitting, in particular, one of the following three possibilities:

(i) In addition to an independent claim for a given product, the inclusion in the same international application of an independent claim for a process specially adapted for the manufacture of the said product, and the inclusion in the same international application of an independent claim for a use of the said product, or

(ii) In addition to an independent claim for a given process, the inclusion in the same international application of an independent claim for an apparatus or means specifically designed for carrying out the said process, or

(iii) In addition to an independent claim for a given product, the inclusion in the same international application of an independent claim for a process specially adapted for the manufacture of the product, and the inclusion in the same international application of an independent claim for an apparatus or means specifically designed for carrying out the process.

13.3 Claims of One and the Same Category

Subject to Rule 13.1, it shall be permitted to include in the same international application two or more independent claims of the same category (i.e., product, process, apparatus, or use) which cannot readily be covered by a single generic claim.

13.4 Dependent Claims

Subject to Rule 13.1, it shall be permitted to include in the same international application a reasonable number of dependent claims, claiming specific forms of the invention claimed in an independent claim, even where the features of any dependent claim could be considered as constituting in themselves an invention.

13.5 Utility Models

Any designated State in which the grant of a utility model is sought on the basis of an international application may, instead of Rules 13.1 to 13.4, apply in respect of the matters regulated in those Rules the provisions of its national law concerning utility models once the processing of the international application has started in that State, provided that the applicant shall be allowed at least two months from the expiration of the time limit applicable under Article 22 to adapt his application to the requirements of the said provisions of the national law."

10. Section 1.476 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.476 Determination of unity of invention before the International Searching Authority.

(a) Before establishing the international search report, the International Searching Authority will determine whether the international application complies with the requirement of unity of invention as set forth in [PCT Rule 13 (see § 1.475(f)) and] § 1.475.

* * * * *

11. Section 1.480 is proposed to be amended by revising paragraph (b) to read as follows:

§ 1.480 Demand for international preliminary examination.

* * * * *

(b) The Demand shall be made on a standardized [printed] form. Copies of [the] printed Demand forms are available from the Patent and Trademark Office. Letters requesting printed >Demand< forms should be marked "Box PCT".

* * * * *

12. Section 1.482 is proposed to be amended by revising paragraphs (a)(2)(i) and (b) to read as follows:

§ 1.482 International preliminary examination fees.

(a) * * *

(2) * * *

(i) >Where the International Searching Authority for the international application was the United States Patent and Trademark Office< [Where a supplemental search fee as set forth in § 1.445(a)(3) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority]—$140.00.

* * * * *

(b) The handling fee is due on filing the Demand. [Any necessary supplement to the handling fee shall be paid directly to the International Bureau.]

13. Section 1.484 is proposed to be amended by revising paragraph (b) to read as follows:

§ 1.484 Conduct of international preliminary examination.

* * * * *

(b) >International preliminary examination will begin promptly upon receipt of a Demand which requests examination based on the application as filed, or an amendment which has been received by the United States International Preliminary Examining Authority. Where a Demand requests examination based on an Article 19 amendment which has not been

received, examination may begin at 20 months without receipt of an Article 19 amendment. Where a Demand requests examination based on an Article 34 amendment which has not been received, applicant will be notified and given a time period within which to submit the amendment. Examination will begin after the earliest of:

(1) receipt of the amendment;

(2) receipt of applicant's statement that no amendment will be made; or

(3) expiration of the time period set in the notification.< No international preliminary examination report will be established prior to issuance of an international search report.

* * * * *

14. Section 1.485 is proposed to be revised to read as follows:

§ 1.485 Amendments by applicant during international preliminary examination.

(a) The applicant may make amendments at the time of filing of the Demand and within the time limit set by the International Preliminary Examining Authority for response to any >notification under § 1.484(b) or to any< written opinion. Any such amendments must—

(1) Be made by submitting a replacement sheet for every sheet of the application which differs from the sheet it replaces unless an entire sheet is cancelled >,< and

(2) Include a description of how the replacement sheet differs from the replaced sheet.

(b) If an amendment cancels an entire sheet of the international application, that amendment shall be communicated in a letter.

15. Section 1.487 is proposed to be removed:

§ 1.487 Unity of invention before the International Preliminary Examining Authority.

(a) An international application before the International Preliminary Examining Authority will be considered to have unity of invention if the claims are in accordance with PCT Rule 13 (see § 1.475(f)).

(b) An international application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the combinations of categories as set forth in PCT Rule 13.2 (see § 1.475(f)) or to the combination of

(1) a product and a process for the manufacture of said product or

(2) a product and a process of use of said product. If an application contains claims to more or less than one of the combinations of categories of invention set forth in PCT Rule 13.2 (see § 1.475(f)) or a combination set forth in paragraphs (b) (1) or (2) of this section, unity of invention may not be present.

(c) If an international application contains claims to a category of invention in addition to those categories included in any one of the combinations specified in paragraph (b) of this section, lack of unity of invention may be held between the categories included in the combination and the claims to the additional category of invention.

(d) Unity of invention will exist where the claims are limited to one of the combinations of categories set forth in PCT Rule 13.2 (see § 1.475(f)) or combination set forth in paragraphs (b)(1) or (2) of this section. If multiple products, processes of manufacture or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto will be considered as the inventions to be examined. Any such holding by the examiner will be made of record as a holding of lack of unity of invention.

(e) The inventions recited by the claims of different categories must be related rather than independent inventions.]

16. Section 1.488 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.488 Determination of unity of invention before the International Preliminary Examining Authority.

(a) Before establishing any written opinion or the international preliminary examination report, the International Preliminary Examining Authority will determine whether the international application complies with the requirement of unity of invention as set forth in >§ 1.475< [§ 1.487].

* * * * *

17. Section 1.492 is proposed to be amended by revising paragraph (e) to read as follows:

§ 1.492 National stage fees.

* * * * *

(e) Surcharge for filing the [basic national fee or] oath or declaration later than 20 months from the priority date pursuant to § 1.494(c) or later than 30 months from the priority date pursuant to § 1.495(c):

By a small entity (§ 1.9(f)	$65.00
By other than a small entity	$130.00

* * * * *

18. Section 1.494 is proposed to be amended by revising paragraphs (a), (b), (c), (d), (g), and (h) to read as follows:

§ 1.494 Entering the national stage in the United States of America as a Designated Office.

(a) Where >the United States of America has not been elected< [no Demand has been filed with an appropriate International preliminary Examining Authority] by the expiration of 19 months from the priority date (see § 1.495), the applicant must fulfill the requirements of PCT Article 22 and 35 U.S.C. 371 within the time periods set forth in paragraphs (b) and (c) of this section in order to prevent the abandonment of the international application as to the United States of America. International applications for which those requirements are timely fulfilled will enter the national stage and obtain an examination as to the patentability of the invention in the United States of America.

(b) >To avoid abandonment of the application, the< [The] applicant shall furnish to the United States Patent and Trademark Office not later than the expiration of 20 months from the priority date—

(1) a copy of the international application, unless it has been previously communicated by the International Bureau or unless it was originally filed in the United States Patent and Trademark Office; >and<

(2) [a translation of the international application into the English language, if it was originally filed in another language;

(3)] the basic national fee (see § 1.492(a)) [; and

(4) an oath or declaration of the inventor (see § 1.497)].

>The 20-month time limit may not be extended.<

(c) >If applicant complies with paragraph (b) of this section before expiration of 20 months from the priority date but omits (1) a translation of the international application as filed into the English language, if it was originally filed in another language (35 U.S.C. 371(c)(2)) and/or (2) the oath or declaration of the inventor (35 U.S.C. 371(c)(4); see § 1.497), applicant will be so notified and given a period of time within which to file the translation and/or oath or declaration in order to prevent abandonment of the application.< [The applicant may furnish any required English translation of the international application, the basic national fee and the oath or declaration of the inventor after 20 months but not later than the expiration of 22 months from the priority date.] The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the

expiration of 20 months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the [basic national fee or the] oath or declaration of the inventor later than the expiration of 20 months after the priority date. >A copy of the notification mailed to applicant should accompany any response thereto submitted to the Office.<

(d) A copy of any amendments to the claims made under PCT Article 19, and a translation of those amendments into English, if they were made in another language, must be furnished not later than the expiration of 20 months from the priority date. Amendments under PCT Article 19 which are not received by the expiration of 20 months from the priority date will be considered to be cancelled. >The 20-month time limit may not be extended.<

* * * * *

(g) [The time limits set out in paragraphs (b), (c) and (d) of this section may not be extended pursuant to § 1.136 or otherwise.

(h)] An international application becomes abandoned as to the United States 20 months from the priority date if >the requirements of paragraph (b) of this section have not been complied with within< [a copy of the international application is not communicated to the Patent and Trademark Office prior to] 20 months from the priority date where the United States has been designated but not elected prior to 19 months from the priority date. If >the requirements of paragraph (b) of this section are complied with< [a copy of the international application is communicated] within 20 months >from the priority date but the translation and/or the oath or declaration are not timely filed,< [to the Patent and Trademark Office,] an international application will become abandoned as to the United States >upon expiration of the time period set pursuant to paragraph (c) of this section.< [22 months from the priority date if the required English translation(s), fees and oath or declaration under 35 U.S.C. 371(c) are not filed within 22 months from the priority date.]

19. Section 1.495 is proposed to be amended by revising paragraphs (a), (b), (c), (d), (e), (h), and (i) to read as follows:

§ 1.495 Entering the national stage in the United States of America as an elected office.

(a) Where >the United States of America has been elected< [a Demand has been filed with an appropriate International Preliminary Examining Authority and not withdrawn] by the expiration of 19 months from the priority date, the applicant must fulfill the rquirements of 35 U.S.C. 371 within the time periods set forth in paragraphs (b) and (c) of this section in order to prevent the abandonment of the international application as to the United States of America. International applications for which those requirements are timely fulfilled will enter the national stage and obtain an examination as to the patentability of the invention in the United States of America.

(b) >To avoid abandonment of the application the< [The] applicant shall furnish to the United States Patent and Trademark Office not later than the expiration of 30 months from the priority date—

(1) a copy of the international application, unless it has been previously communicated by the International Bureau or unless it was originally filed in the United States Patent and Trademark Office;>and<

(2) [a translation of the international application into the English language, if it was originally filed in another language;

(3)] the basic national fee (see § 1.492(a)) [; and

(4) an oath or declaration of the inventor (see § 1.497)].

>The 30-month time limit may not be extended.<

(c) >If applicant complies with paragraph (b) this section before expiration of 30 months from the priority date but omits (1) a translation of the international application, as filed, into the English language, if it was originally filed in another language (35 U.S.C. 371(c)(2)) and/or (2) the oath or declaration of the inventor (35 U.S.C. 371(c)(4)); (see § 1.497), applicant will be so notified and given a period of time within which to file the translation and/or oath or declaration order to prevent abandonment of the application.< [The applicant may furnish any required English translation of the international application, the basic national fee and the oath or declaration of the inventor after 30 months but not later than the expiration of 32 months from the priority date.] The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of 20 months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the [basic national fee or the] oath or declaration of the inventor later than the expiration of 30 months after the priority date. <A copy of the notification mailed to applicant should accompany any response thereto submitted to the Office.<

(d) A copy of any amendments to the claims made under PCT Article 19, and a translation of those amendments into English, if they were made in another language, must be furnished not later than the expiration of 30 months from the priority date. Amendments under PCT Article 19 which are not received by the expiration of 30 months from the priority date will be considered to be cancelled. >The 30-month time limit may not be extended.<

(e) A translation into English of any annexes to the international preliminary examination report, if the annexes were made in another language, must be furnished not later than the expiration of 30 months from the priority date. Translations of annexes which are not received by the expiration of 30 months from the priority date may be submitted within >any period set pursuant to paragraph (c) of this section< [32 months from the priority date] accompanied by the processing fee set forth in § 1.492(f). [Translations of the annexes] >Annexes for which translations< [which] are not timely received will be considered [to be] cancelled. >The 30-month time limit may not be extended.<

* * * * *

(h) [The time limits set out in paragraphs (b), (c), (d), and (e) of this section may not be extended pursuant to § 1.136 or otherwise.

(i)] An international application becomes abandoned as to the United States 30 months from the priority date if >the requirements of paragraph (b) of this section have not been complied with within< [a copy of the international application is not communicated to the Patent and Trademark Office prior to] 30 months from the priority date and >the United States has been elected< [a Demand for International Preliminary Examination which elected the United States of America has been filed] prior to the expiration of 19 months from the priority date. If >the requirements of paragraph (b) of this section are complied with< [a coy of the international application is communicated] within 30 months >from the priority date but the translation and/or the oath or declaration are not timely filed,< [to the Patent and Trademark Office,] an international application will become abandoned as to the United States >upon expiration of the time period set pursuant to paragraph (c) of this section.< [32 months from the priority date if the required English translation(s), fees and oath or declaration under 35 U.S.C. 371(c) are

not filed within 32 months from the priority date.]

20. Section 1.499 is proposed to be revised to read as follows:

§ 1.499 Unity of invention during the national stage.

[(a) An international application which has entered the national stage by meeting the requirements of 35 U.S.C. 371 will be considered to have unity of invention if the claims are in accordance with PCT Rule 13 (see § 1.475(f)).

(b) An application in the national stage containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the combinations of categories as set forth in PCT Rule 13.2 (see § 1.475(f)) or to the combination of—

(1) A product and a process for the manufacture of said product or

(2) A product and a process of use of said product. If an application contains claims to more or less than one of the combinations of categories of invention set forth in PCT Rule 13.2 (see § 1.475(f)) or a combination set forth in paragraphs (b)(1) and (2) of this section, unity of invention may not be present.

(c) If an application in the national stage contains claims to a category of invention in addition to those categories included in any one of the combinations specified in paragraph (b) of this section, lack of unity of invention may be held between the categories included in the combination and the claims to the additional category of invention.

(d) Unity of invention will exist in an application in the national stage where the claims are limited to one of the combinations of categories set forth in PCT Rule 13.2 (see § 1.475(f)) or a combination set forth in paragraphs (b)(1) or (2) of this section. If multiple products, processes of manufacture or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto will be considered as the elected invention to be examined. Any such holding of an election by the examiner will be made in the form of a restriction requirement which confirms the election made by the presentation of claims. Such a restriction requirement would be made on the basis of whether the inventions are independent and distinct. Applicant has the right to traverse such a restriction requirement in the response to the Office action in which the election is indicated.

(e) The inventions recited by the claims of different categories must re related rather than independent inventions.

(f)] If the examiner finds that a national stage application lacks unity of invention >under § 1.475<, the examiner may in an Office action require the applicant in the response to that Office action to elect the invention to which the claims shall be restricted, this official action being called a requirement for restriction. Such requirement may be made before any action on the merits but may be made at any time before the final action at the discretion of the examiner. Review of any such requirement is provided under §§ 1.143 and 1.144.

21. Section 1.821 is proposed to be amended by revising paragraph (h) to read as follows:

§ 1.821 Nucleotide and/or amino acid sequence disclosures in patent applications.

* * * * *

(h) If any of the requirements of paragraphs (b) through (f) of this section are not satisfied at the time of filing, in the United States Receiving Office, an international application under the Patent Cooperation Treaty (PCT), applicant has one month from the date of a notice which will be sent requiring compliance with the requirements, or such other time as may be set by the Commissioner, in which to comply. Any submission in response to a requirement under this paragraph must be accompanied by a statement that the submission does not include new matter or go beyond the disclosure in the international application as filed. Such a statement must be a verified statement if made by a person not registered to practice before the Office. >If applicant fails to timely provide the required computer readable form, the United States International Searching Authority shall search only to the extent that a meaningful search can be performed.<

* * * * *

22. The authority citation for 37 CFR part 10 would continue to read as follows:

Authority: 5 U.S.C. 500; 15 U.S.C. 1123; 35 U.S.C. 6, 31, 32, 41.

23. Section 10.9 is proposed to be amended by adding new paragraph (c) to read as follows:

§ 10.9 Limited recognition in patent cases.

* * * * *

>(c) An individual not registered under § 10.6 may prosecute an international application only before the U.S. International Searching Authority and the U.S. International Preliminary Examining Authority, provided: the individual has the right to practice before the national office with which the international application is filed (PCT Art. 49, Rule 90 and § 1.455).<

Dated: June 24, 1992.

Douglas B. Comer,

Acting Assistant Secretary and Acting Commissioner of Patents and Trademarks.

[FR Doc. 92-15377 Filed 6-30-92; 8:45 am]

BILLING CODE 3510-16-M

FEDERAL MARITIME COMMISSION

46 CFR Part 586

[Docket No. 91-24]

Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/Korea Trade

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking; second request for additional comment.

SUMMARY: The Commission is soliciting further information on the issues raised in the proposed rule in this proceeding. The proposed rule would impose fees on Korean-flag vessels calling at U.S. ports, in response to apparent unfavorable conditions created by the Republic of Korea on trucking activity and rail access in the foreign oceanborne trade between the United States and Korea. The additional comments should address the inter-governmental discussions scheduled for July 7–8, 1992 and any other developments relevant to the proposed rule.

DATES: Comments due August 12, 1992.

ADDRESSES: Send comments to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573 (202) 523-5725.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523-5740.

SUPPLEMENTARY INFORMATION: By notice of Request for Additional Comment issued October 30, 1991 ("October Notice"), the Federal Maritime Commission ("Commission") solicited information on the implementation of commitments made during the course of this proceeding. Two rounds of comments were requested by February 3, 1992, and May 29, 1992. The October Notice also advised that another comment period would be announced for approximately one month after inter-governmental consultations were held, which at the time were tentatively planned for "before June 30, 1992."

It now appears that discussions between U.S. and Korean representatives are scheduled for July 7–8, 1992. To this end, the Commission solicits additional comments by August 12, 1992, on the results of those consultations. Interested parties should also use this opportunity to advise the Commission of any other developments pertinent to the proposed rule.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–15380 Filed 6–30–92; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 92–115; FCC 92–205]

Revision of Part 22 of the FCC's Rules Governing the Public Mobile Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission proposes to revise its rules governing the Public Mobile Services in their entirety. The proposed revision is necessary to clarify and update these rules. The intent of this proposal is to make these rules easier to understand, eliminate outdated rules and unnecessary information collection requirements, streamline licensing procedures, and allow licensees greater flexibility in providing service to the public.

DATES: Comments must be submitted on or before August 21, 1992. Reply comments must be submitted on or before September 21, 1992.

FOR FURTHER INFORMATION CONTACT: Dan Abeyta, 202–632–6450 (legal issues) or B.C. "Jay" Jackson, Jr., 202–653–5560 (technical issues).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The following collections of information contained in this proposed rule have been submitted to the Office of Management and Budget for review under Section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1990 M Street NW., suite 640, Washington, DC 20036, (202) 452–1422. A copy of any comments filed with the Office of Management and Budget should also be sent to the following address at the Commission: Federal Communications Commission, Information Resources Branch, room 416, Paperwork Reduction Project, Washington, DC 20554. For further information, contact Judy Boley, (202) 632–7513.

Title: Revision of part 22 of the Commission's rules governing the Public Mobile Services.

OMB Number: None.

Action: Proposed Revision.

Respondents: Businesses or other for-profit, including small businesses.

Frequency of Response: On occasion, quarterly, semi-annually, or annually; recordkeeping.

Public burden for the collections is estimated as follows:

Sections/forms	Estimated average hours per response	Estimated annual re-sponses
22.105(d) and (g)	2	20,860
22.108	0.25	10,000
22.109	5	10
22.115	1	10,000
22.119	1	25
22.125	1	100
22.129	1	20
22.130	10	50
22.137	0.5	100
22.142	0.084	1,000
22.150	10	40
22.161	0.5	1
22.167	1	100
22.321	2	800
22.321 (recordkeeping)	52	800
22.323	0.50	100
22.357	1	2
22.369	1	10
22.409 (b) and (c)	3	10
22.409(f)	10	10
22.411	7.3	116
22.415	2	10
22.529	2	4,000
22.551	0.50	10
22.559 and 22.589	2	10,000
22.577	0.50	10
22.601	0.50	38
22.603	0.50	2
22.625	1	10
22.655	2	8
22.657	2	1
22.709	3	100
22.711	1	30
22.869 (one time only)	1	6
22.875	40	1
22.901(b)	2	2
22.901(d)	1	10
22.903	1	7
22.907	0.50	10
22.911	10	300
22.937	2	10,000
22.947	6	1,500
22.953	4	10,000
22.1037	1	10
FCC Form 401	4	10,000
FCC Form 489	3	5,000
FCC Form 490	2	100
FCC Form 405	0.25	1,032
FCC Form 409	0.084	1,800
FCC Form 430	2	1,900
Total Annual Burden: 259,688.5 hours		

Needs and Uses: The notice of proposed rulemaking solicits public comment to revise part 22 of FCC's rules governing the Public Mobile Services. The revisions are proposed in order to make the rules easier to understand, eliminate outdated rules and unnecessary information collection requirements, streamline licensing procedures, and allow licensees greater flexibility in providing service to the public. Generally, the collected information is used to determine the legal, technical and/or financial qualifications of the respondents.

Regulatory Flexibility

Pursuant to the Regulatory Flexibility Act of 1980, the Commission's initial regulatory flexibility analysis follows:

Reason for Action and Objective

The Commission is proposing to revise title 47, part 22 of the Code of Federal Regulations to eliminate unnecessary information collection requirements and, wherever possible, provide greater flexibility to carriers while at the same time promoting the public interest. The objective of this proposal is to provide effective and adaptive regulation for communications.

Legal Basis

Authority for this notice is contained in sections 4(i) and 303(r) of the Communications Act of 1934, 47 U.S.C. 154(i) and 303(r).

Reporting, Recordkeeping and Other Compliance Requirements

The proposed rules would retain most of the existing reporting, recordkeeping and other compliance requirements, without significant change. In some instances, a current filing requirement would be replaced by a less burdensome filing or recordkeeping requirement. A few new requirements are proposed. For example, one of the proposed new rules would require that applicants file agreements and an affidavit when payment is made in exchange for refraining from filing a petition to deny. For another example, the proposal concerning finder's application would require applicants to file additional information not currently required in order to obtain a benefit not currently available. Overall, this comprehensive rewrite would result in a net reduction in reporting, recordkeeping and other compliance requirements.

Federal Rules That Overlap, Duplicate or Conflict With These Rules

None.

Description, Potential Impact and Number of Small Entities Affected

There are approximately 8,600 licensees subject to the rules in part 22. A substantial portion of these are small entities. There are also a number of small entities whose business is consulting or providing other services in connection with part 22. The proposed rewrite would not significantly impact these small entities.

Significant Alternatives Minimizing Impact on Small Entities and Consistent With Stated Objectives

The proposals contained in this Notice are meant to simplify and ease the regulatory burden on all Public Mobile Services applicants and licensees consistent with the Commission's established public interest objectives.

The Chief Counsel for Advocacy of the Small Business Administration will be served with a copy of this Notice of Proposed Rule Making in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a).

Summary of the Notice of Proposed Rule Making

The following is a summary of the Commission's notice of proposed rulemaking in CC Docket No. 92–115, adopted May 14, 1992 and released June 12, 1992. The full texts of all Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may be purchased from the Commission's copy contractor, Downtown Copy Center, 202–452–1422, 1114 21st Street NW., Washington, DC 20036.

1. In this Notice, the Federal Communications Commission proposes to revise 47 CFR part 22 in its entirety. The rules in part 22 govern the Public Mobile Services. These revisions are proposed in order to make these rules easier to understand, to eliminate outdated rules and unnecessary information collection requirements, to streamline licensing procedures and to allow licensees greater flexibility in providing service to the public.

2. Recently, the Mobile Services Division (MSD) established an internal task force to revise 47 CFR part 22. This task force met throughout 1989 and 1990 and suggested many specific rule changes. Telocator, the Cellular Telecommunications Industry Association, International Mobile Machine Corporation, Bell Atlantic Mobile Systems, the Federal Communications Bar Association Land Mobile Practice Committee, and MSD staff members suggested revisions to part 22.

3. Several factors make revision of part 22 of the rules desirable at this time. First, since the most recent revision of part 22 in 1983, the Commission has amended various sections of part 22. A rewrite and update of part 22 at this time will ensure that these rules are consistent and applicable today.

4. Second, significant changes in the Public Mobile Services have made some of the rules obsolete or unnecessary. In the cellular service, systems in almost all major and rural markets have been licensed. This fact, and other rapid developments in the cellular industry have rendered obsolete the rules for processing initial cellular applications in these markets. Cellular licenses will soon begin to expire, and rules governing the processing of applications from parties competing against renewal applicants have recently been adopted. Part 22 should be revised to better incorporate these and other new rules.

5. Third, substantial changes in technology have caused some of the technical specifications in part 22 to become outdated or unnecessary. Changes in technology have also made it desirable to provide carriers with greater flexibility to deal with new and changing circumstances while, at the same time, promoting the public interest.

6. Fourth, the Metric Conversion Act of 1975 encourages agencies to use the metric system in procurement, grants and other business activities. In converting part 22 rules involving heights and distances from English units to metric, rounding of the converted quantities to convenient whole numbers is desirable, but sometimes causes slight changes that require public consideration in a notice and comment rule making proceeding.

7. Appendix A contains a section by section description of the proposed substantive changes to part 22. However, the following is a brief discussion of the more significant proposals.

8. We propose to reorganize part 22 so that the rules are grouped in a more logical arrangement of subparts. Lengthy sections that cover different and sometimes unrelated topics have been broken up into separate sections. Rules common to all Public Mobile Services have been consolidated under the first three subparts. Rules that apply only to specific services are grouped under subparts covering those specific services. We propose to retitle the individual radio services to more clearly indicate the types of service provided. Currently, rules governing paging and radiotelephone services are separated according to frequency ranges, without regard to the purposes for which the channels may be used. In the proposed revision, rules are organized according to types of operation, such as one-way paging operation, two-way mobile operation, and point-to-point operation. In addition, we propose to consolidate the rules governing air-ground radiotelephone services under a single subpart.

9. We propose that all mutually exclusive applications in the Public Mobile Services be processed using a "first come, first served" procedure. Under this proposal, only mutually exclusive applications received on the same day would be entitled to be included in a random selection process. The 60 day period currently allowed for the filing of competitive applications would be eliminated. The proposed "first come, first served" procedure would eliminate the need for most of the random selection processes now conducted, expedite the processing of applications and prevent applicants from filing applications simply to impede a competitor's applications.

10. We propose to rely on the technical exhibits provided by applicants without verifying their accuracy prior to grant. Currently, applicants must certify that statements made in their applications are complete and correct. We propose to strengthen this certification to state that the applicant has carefully reviewed the engineering of its proposal and certifies that it complies with the technical rules for operation on an interference-free basis. Implementation of this proposal would reduce the time required to process applications. With the new certification in place, all authorizations in the Paging and Radiotelephone and the Rural Radiotelephone Services would be granted on the condition of non-interference for the entire term of the license. Once operations commence, if interference occurs because of an error or omission in the technical exhibits to the application, the Commission could order the licensee, without affording an opportunity for a hearing, to suspend operation of the facilities at the locations causing the interference, until the interference is resolved.

11. To recapture unused spectrum, we propose to adopt a concept called "finders preference." We recently implemented a similar finder's preference concept for the Private Radio Services. (See 56 FR 65856, December 19, 1991.) Under this proposal, an applicant

could file a "finders" application for a channel that is assigned, but not being used. Although such an application would now be dismissed as defective, under the proposed rules it would be kept on file pending the outcome of a staff investigation into the current licensee's alleged noncompliance with the construction and operation rules. If the investigation revealed that the licensee was not complying with these rules, the authorization could be canceled and the unused channels reassigned. The "finders" application would then be considered the first filed for the recovered channel.

12. We are announcing a limited amnesty period, during which licensees who turn in authorizations for unused channels will not be subject to forfeitures for (a) discontinuing service without notifying the Commission as required by 47 CFR 22.303, or (b) notifying the Commission of commencement of service when, in fact, service has not commenced. The limited amnesty period will begin on July 1, 1992, and continue until the date that final rules adopted in this proceeding become effective. After the amnesty period, licensees violating the construction and operation rules will again be subject to forfeiture or any other appropriate enforcement action.

13. We propose to discontinue our reliance on the methods outlined in the Carey Report (FCC Report No. R-6406, "Technical Factors Affecting the Assignment of Facilities in the Domestic Public Land Mobile Service" by Roger B. Carey) for evaluating proposed stations in the Public Land Mobile and Rural Radio services. In place of these methods, we propose to use mathematical formulas to define service areas and interference potential of all VHF and 450 MHz UHF stations in these services. Use of the formulas would eliminate ambiguities inherent in the Carey method and facilitate development of simpler and more efficient software to perform interference studies. Assignments made using the formulas would be compatible with existing assignments because the formulas produce results that are very close to the Carey method. Also, we propose to convert all of the graphs and many of the tables in the rules to formulas, where it appears to be mathematically feasible. As with the Carey curves, graphs are subject to differing but equally valid readings because of the limits of human visual acuity. Tables are not ambiguous, but they must either be lengthy or employ interpolation methods that complicate adaptation to computer programs. Formulas have the advantages of always yielding the same result for a given set of parameters, and being compact and easy to program. In those instances where it does not appear to be beneficial or mathematically feasible to convert graphs to formulas, we propose to convert them to tables instead.

14. Part 22 currently requires applicants to submit traffic loading studies when they request one or more additional paired channels for an existing station. (See 47 CFR 22.16 and 47 CFR 22.516(a)(2).) These studies were initially adopted to ensure efficient use of paired channels. To obtain additional paired channels, a licensee must conduct channel occupancy measurements to demonstrate that existing and projected traffic on its system necessitates the additional channels. However, in view of the proliferation of competitive telecommunication services and our decisions in other proceedings affecting channel usage, we believe that the traffic loading studies are no longer a reliable indicator of efficient spectrum utilization. Also, these studies are burdensome for licensees to conduct and for our staff to evaluate. To prevent warehousing of spectrum, we propose to use, instead of the traffic loading studies, the procedures that we have been using for several years to govern additional channel requests for one-way paging operations. Under the proposed rules, applicants could apply for no more than two paired channels at a time and must be providing service on those channels before applying for additional channels. We believe that this method would allow licensees that need additional channels the opportunity to obtain them, while continuing to provide an adequate safeguard against warehousing.

15. The rules currently allow licenses to make minor changes to facilities and to construct and operate additional transmitters without prior commission approval, provided that they notify the Commission by filing an FCC Form 489. However, these notifications are routine and seldom involve concerns that a licensee is expanding into new territory or exceeding its current contours. We propose to modify our rules to allow licensees to make such changes to their facilities without seeking prior Commission approval or notifying the Commission of such changes. Licensees would be required to maintain accurate up-to-date records of facilities added or modified that could be provided to the Commission upon request. This proposal is intended to conserve both Commission and industry resources.

16. The proposed rules would provide that authorizations automatically expire without further action by the Commission. Furthermore, the 30-day reinstatement period would be eliminated. Requests for extensions of the construction period filed prior to expiration would be granted only for causes outside of the licensee's control.

17. We welcome comment on any and all of the proposed revisions to 47 CFR part 22. We also invite suggestions for any other proposals or refinements to the proposals that we have made in this proceeding.

18. Upon implementation of rule changes proposed herein, we would require the use of redesigned FCC Forms 401, 489, and 490. Examples of the redesigned forms are attached to the Commission release of this Notice of Proposed Rule Making. Currently, we generally require FCC Form 401 for major filings and FCC Form 489 for minor filings. Under the proposed rules, we would require Form 401 for major and minor applications and amendments (filings that result in a Commission action to grant, dismiss or deny) and Form 489 for notifications (filings that do not require a Commission action). To prepare for future electronic filing and filings on magnetic media, and to facilitate automated entry of station technical data into a relational computer data base, we have restructured FCC Form 401 into a modular format. To accommodate the modular format, some of the data items on the current forms must be relocated. Other changes include eliminating unnecessary or duplicative items.

19. This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 CFR 1.1202, 1.1203 and 1.1206(a).

20. Pursuant to applicable procedures in 47 CFR 1.415 and 1.419, interested parties may file comments on or before August 21, 1992 and reply comments on or before September 21, 1992. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, DC 20554.

Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

21. Accordingly, *It Is Ordered* That, pursuant to section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), this notice of proposed Rulemaking is issued. *It is further ordered,* That the Secretary shall cause a copy of this notice to be sent to the Chief Counsel for advocacy of the Small Business Administration.

Summary of Appendices A, B, and C

Appendix A discusses the major rule revisions. Rules changed only in format or style, rules only reworded or retitled, rules with only minor or non-substantive changes, and rules we propose to delete because they are unnecessary are not discussed. Appendix B sets forth proposed part 22 essentially in its entirety. A table for cross-referencing the current rules and the proposed rules appears in Appendix C. (Appendices B and C are contained in the Commission's release of the notice of proposed Rulemaking.)

Definitions

The definitions for Part 22 are updated. Some definitions are removed and others added. More appropriate titles for the various public mobile services are proposed. For example, the "Domestic Public Cellular Radio Telecommunications Service" is retitled the "Cellular Radiotelephone Service", and the "Public Land Mobile Service" is retitled the "Paging and Radiotelephone Service". The terms "frequency" and "channel" are defined in more technically correct terms.

Station Files

We propose to codify the long-standing policy that station files at the Commission constitute the official record for each station. Other FCC records and data bases are not official records and reliance on these secondary sources does not establish or deprive parties of rights.

Written Applications, Standard Forms, Microfiche, Magnetic Disks

We propose to require that all applications on standard forms, regardless of length, and any filings pertaining to a current or pending application or an existing authorization, be filed in microfiche form. Except in the case of emergency filings, all other filings longer than three pages would be submitted in microfiche form. Despite changes to the standard FCC forms, which would make some filings shorter than they currently are, we must continue to require that applications be filed in microfiche form because of constraints on file storage space and microfiching resources. We propose to require that all microfiche have a black background. We propose a rule that permits applicants to submit technical and administrative data contained in their applications on standard 3½ inch magnetic disks. We seek comment on the proposed format, the type of file to be used, and the data field delimiter. We intend that technical information submitted by licensees on magnetic disks be sufficient to enable the Commission to automatically generate notifications to the International Frequency Registration Board (IFRB). Any rules with respect to filings on magnetic disks would not become effective until the Commission can implement fully this process.

Application Processing; Initial Procedures

We propose to clarify and update 47 CFR 22.27, and specify the initial procedures the Mobile Services Division (MSD) follows when processing applications.

Repetitious, Inconsistent or Conflicting Applications

We propose to revise 47 CFR 22.21 to provide that where an authorization is automatically terminated for failure to commence service, the Commission will not consider a later filed application by the same party for authorization to operate a station on the same channel (or in the case of 931 MHz paging station, in the same frequency range) in the same geographical area until one year after the date the authorization is terminated. This is intended to discourage warehousing.

Classification of Filings as Major or Minor

We propose to clarify 47 CFR 22.23 concerning the classification of filings as major or minor. This classification is pursuant to section 309 of the Communications Act of 1934, as amended, 47 U.S.C. 309. The Commission cannot grant major filings until 30 days after public notice of such filings is given. Currently, the rule provides only guidelines for classifying amendments. The proposed rule goes beyond this by setting forth the rationale for classification of all filings.

Notification Processing

We propose a new rule section to outline MSD's procedures for processing notifications. The number of notifications MSD receives has grown steadily and accounts for a significant portion of the processing work load.

Applications for Special Temporary Authorizations

We propose to clarify and consolidate into one section all rules governing the filing and processing of requests for special temporary authorizations.

Dismissal of Applications

We propose to consolidate the provisions of 47 CFR 22.20 and 47 CFR 22.28 pertaining to dismissal of applications.

Agreements to Dismiss Applications, Amendments or Petitions to Deny

We propose to add a new rule concerning agreements to amend or dismiss applications or pleadings. We believe that permitting payments for settlements of mutually exclusive applications may encourage the filing of non-*bona fide* applications. Legitimate applicants may be persuaded to pay these insincere applicants to avoid protracted litigation, resulting in needless expenses to legitimate applicants. This also wastes Commission resources and delays initiation of service to the public. The proposed rule would require a party that has filed a mutually exclusive application and entered into a written agreement to withdraw its application to obtain the approval of the Commission. This rule would also limit the consideration that an applicant can receive for agreeing to withdraw an application to legitimate and prudent expenses. We also propose to address dismissal of petitions to deny. Our experience has shown that parties may file petitions to deny just to extract money from an applicant or to delay the applicant and thus force a settlement. Non-legitimate petitions also burden applicants, waste Commission resources and do not serve the public interest. Accordingly, we propose to limit settlement payments that can made in exchange for withdrawing petitions to deny filed in initial licensing, modification and assignment proceedings. We propose that when a petition to deny is withdrawn in exchange for money, the payment to the petitioner be limited to legitimate and prudent expenses incurred in prosecuting the petition.

Random Selection Process

This revision of 47 CFR 22.33 eliminates provisions that delineate lottery procedures for cellular

applications in the top-120 markets, and MSA/RSA markets beyond the top-120. Because initial lotteries in these markets have already occurred and cellular service has been provided in most of these markets, these rules are no longer necessary. This proposed rule would not alter the current random selection procedures governing mutually exclusive applications for initial authorizations, as needed, in the cellular service. In addition, we propose to eliminate paragraph (c) of 47 CFR 22.33, which allows mutually exclusive applicants in the Public Land Mobile Service to request a comparative hearing in lieu of a random selection process under certain circumstances. In Lotteries Selection Among Applicants (reconsideration), 49 FR 49466 (1984), the Commission provided that Public Land Mobile Service licensees applying to expand an existing system on the same channel, whose applications are mutually exclusive with other applications, could request that a comparative hearing be used in lieu of a random selection process to decide which application would be granted. The purpose for this provision was to allow the expansion applicant an opportunity to try to demonstrate the expansion of its existing system, which would have to be accomplished on the channel already authorized, might better serve the public than the authorization of a new station, which could be done on any available channel. To date, however, no applicant has been able to satisfactorily demonstrate this, and consequently no such hearings have been held. Our proposal to process applications on a "first come—first served" basis, if adopted, would make the deliberate filing of mutually exclusive applications unlikely, and consequently make this provision unnecessary. We also propose to eliminate 47 CFR 22.35, which allows mutually exclusive applicants to request expedited hearing procedures. To our knowledge, these hearing procedures have not been utilized.

Settlement Conference

We propose a new rule directing parties or their attorneys to participate in settlement conferences regarding application proceedings. The proposed rule provides that if the Commission determines that a settlement conference should be convened: (1) The parties or their attorneys are obligated to participate, in person or by telephone conference call; and (2) Failure to participate in such a conference will be deemed a failure to prosecute, rendering that party's application or petition defective and subject to dismissal. We propose this rule to expedite the resolution of petitioned proceedings.

Commencement of Service; Notification Requirement

We propose to revise 47 CFR 22.43 to require that stations must provide service to the public by the end of the construction period. If a licensee fails to provide service to the public by the date of required commencement of service, the authorization would be automatically terminated without any further notice from the Commission. This proposed rule is intended to encourage licensees to provide service to the public as expeditiously as possible. It has also been revised to clarify what circumstances might warrant an extension of the construction period.

Construction Prior to Grant of Application

We propose to consolidate all current rules and policies regarding the construction of facilities prior to grant of an authorization to operate them.

Termination of authorization

We propose to revise 47 CFR 22.44. The revision lists the five ways, other than revocation, that a Public Mobile Services authorization can be terminated.

Renewal Application Procedures

We propose to require that applications for renewals of authorizations be filed by the licensee prior to, but no more than 30 days before the expiration date of the license. The current rule requires applicants to file their renewal no sooner than 60 days and no later than 30 days prior to the expiration date of the authorization. The proposed revision would eliminate the "gap", a period of time after the 30 day filing period during which it is too late to file for renewal, but the authorization has not expired. In addition, we propose to eliminate the current provision that allows licensees who failed to timely file their renewal applications due to confusion about the aforementioned gap to file reinstatement applications after the authorization expires. Because the gap would be eliminated, reinstatements should no longer be needed. Finally, a separate application for renewal would be required for each station (call sign). Currently, licensees may apply for renewal of more than one station on a single application.

Authorization Conditions

We propose to adopt a rule providing that authorizations in the Paging and Radiotelephone Service and the Rural Radiotelephone Service are subject to the condition that if interference occurs upon commencement of operation because of an omission or error in the required technical exhibits of the application, the Commission may order the licensee, without a hearing, to suspend operations at the location causing the interference until the interference is resolved. This proposal strikes a balance between our intent to ensure interference-free operation and our expectation that applicants be accountable for the accuracy of their technical exhibits, which should demonstrate compliance with our rules.

Standard Pre-filing Technical Coordination Procedure

We propose to consolidate two repetitive rules (47 CFR 22.100(d)(1)–(d)(11) and 47 CFR 22.501(m)(4)). The procedure currently applies (and as proposed would apply) only to two types of authorizations: Microwave fixed stations and Hawaii inter-island fixed service on 488–494 MHz.

Computation of Distance and Average Terrain Elevation

We propose to add a new rule that sets forth the procedure to be used for calculating the distance between two locations. Also, we propose to revise 47 CFR 22.115(c) to specify that average terrain elevation determinations be performed by computer, except in cases of dispute. Under the current rule, average terrain determinations are to be performed manually, using profile graphs derived from topographical maps, except that such determinations may also be performed by computer. Since the most efficient method of computing average terrain elevation is by computer, most applicants take advantage of the "exception", and practically none use the manual method required by the rule. The proposed revision reflects this reality.

Minor Modifications to Existing Stations

The rules currently allow licensees to make minor modifications to existing facilities under certain circumstances, provided that the Commission is notified of the modifications (FCC Form 489). We are proposing to eliminate the requirement that licensees notify the Commission of such modifications. Of course, there would be no record of the modifications in the station files or computer data bases; consequently, these transmitters might not be protected from interference. The purpose of this proposal is to reduce the number of notifications filed and thus

conserve Commission and industry resources.

Additional Transmitters for Existing Systems

The rules currently allow licensees to construct and operate additional transmitters under certain circumstances, provided that the Commission is notified of the additional transmitters (FCC Form 489). We are proposing to eliminate the requirement that licensees notify the Commission of such additional transmitters. Of course, there would be no record of the additional transmitters in the station files or computer data bases; consequently, these transmitters would not be protected from interference. The purpose of this proposal is to reduce the number of notifications filed and thus conserve Commission and industry resources.

Applications for Assigned but Unused Channels

We propose a new section to set forth procedures for implementing a "finder's preference" concept whereby applicants may apply for assigned but unused Public Mobile Service channels. If a licensee fails to comply with rules requiring the provision of service to the public, the authorization terminates and the channels involved can then be reassigned to another applicant. To expedite reassignment of channels that are not being utilized, we propose to allow an applicant to file a "finders" application that does not meet the technical protection requirements with respect to a currently assigned but allegedly unused channel, provided that information concerning the facility that has failed to commence service or has discontinued service, in violation of the rules is provided. We propose that a finder's application include (1) the name and address of the licensee; (2) the licensee's call sign and the location of the licensed facility; and (3) a statement providing details concerning the alleged nonuse of the facility. The Commission would place "finders" applications on Public Notice, identifying them as such and listing them as tentatively acceptable for filing. Under the proposed rule, the staff may also conduct an investigation to verify that the authorization for the identified facility has, in fact, terminated.

Operator and Maintenance Requirements

We propose to revise 47 CFR 22.205 to no longer require that licensees' maintenance agreements with third parties be in writing. This requirement is unnecessary.

Station Identification

We propose to revise 47 CFR 22.213 to allow paging and radiotelephone stations to be identified by the call sign of another station of the same licensee in the same system. Currently we receive requests to "consolidate call signs" of systems that were originally authorized separately and bear different call signs. Licensees often wish to use the same call sign for the entire system to conserve air time. Sometimes it is extremely time consuming or impossible for the MSD staff to merge large station files under one call sign. Consequently, we have from time to time waived the station identification requirement to allow licensees to use a different call sign than the one assigned, in order to satisfy the purpose of the consolidation request without merging the files. The proposed rule would eliminate the need for these routine waivers.

Discontinuance of station Operation

We propose to revise 47 CFR 22.303 to make clear that a station that has not provided service to the public for 90 continuous days is considered to have been permanently discontinued.

Equal Employment Opportunities

We are committed to the principle of equal employment opportunity in the communications common carrier industry. Accordingly, the proposed revision of 47 CFR 22.307 maintains (1) the requirement that Public Mobile Services licensees afford equal opportunity in employment and (2) the prohibition on discrimination against personnel on the basis of sex, race, color, religion or national origin. We propose to reorganize some of the paragraphs in the existing rule for clarity. In particular, the current wording seems to imply that the EEO program statement filing requirement applies only to stations in existence prior to December 17, 1970. The proposed rule is reworded to make it clear that the filing of EEO statements is an on-going requirement, and to change the annual date by which updates are to be filed from April 1 to May 31, the same date that annual employment and complaint reports are due. This will serve to consolidate all CCB EEO filings on this date. Additionally, we propose a catch-up date for carriers who may have failed to file EEO program statements because of confusion due to the wording of the current rule.

Control Points

We propose to combine the control point requirements for all of the Public Mobile Services in this rule. Furthermore, we propose to eliminate the provisions in 47 CFR 22.909 requiring cellular operators to obtain Commission approval prior to moving the location of the control point beyond the boundary of the CGSA.

Frequency Tolerance

We propose to specify transmitter frequency tolerances in terms of parts per million (ppm) rather than per cent (%). This reflects the fact that modern transmitters are considerably more stable than those used ten to twenty years ago.

Emission Masks

We propose to specify resolution bandwidths for instruments used to measure compliance with the emission masks specified. Callers frequently ask the MSD staff for this information.

Disturbance of AM broadcast Station Antenna Patterns

We propose a new rule to codify existing policy developed in response to the proliferation of new cellular towers. The rule sets forth the responsibility of Public Mobile Services licensees in avoiding interference in the AM broadcast service.

Type Acceptance of Transmitters

We propose to revise 47 CFR 22.120 to clarify that transmitters operating under a developmental authorization do not have to be type accepted.

Description and Purpose of Developmental Authorizations

We propose to revise 47 CFR 22.400 and 47 CFR 22.401 to state that developmental authorizations may be issued to determine whether a station can operate without causing interference to existing stations. We also propose to combine the provisions and requirements for routine developmental authorizations that are currently scattered throughout part 22, and categorize them in a few sections by type of operation, radio service and frequency range.

Number of Transmitters Per Station

We propose to require a separate transmitter for every assigned channel at each location. This is intended to eliminate the practice of installing one multi-frequency transmitter at a site where two or more channels are authorized. Although such a transmitter may transmit on any one of the authorized channels, it cannot transmit on more than one of them at the same time. This can result in inefficient use of the spectrum. We request comment as to

whether there is a less stringent requirement that would also meet this objective. We also propose to require that transmitters be operationally related in order to be authorized together as a station. Unrelated transmitters that are widely separated geographically would not be authorized together as a station. This proposal is intended to codify current policy, which promotes administrative efficiency by ensuring that station files comprise data on operationally related transmitters. It also helps to prevent particular station files containing the records of stations owned by large or nationwide companies from growing so large as to be unwieldy.

Procedure for Mutually Exclusive Applications

This proposed rule would replace 47 CFR 22.33 and 47 CFR 22.35, insofar as these rules establish procedures to process mutually exclusive applications in the Public Land Mobile Service. We propose that all mutually exclusive Public Land Mobile Service applications be processed on a "first-come, first served" basis.

Channel Availability

In general, the Commission requires applicants to request specific channels which they believe to be available when the application is filed. However, for the 931 MHz paging and 470-512 MHz point to multipoint channels, applicants are not required to request a specific channel because the Commission selects and assigns a channel when granting such applications. Often, a channel in these frequency ranges will become available after an application is filed but before it is acted upon or included in a random selection process. We are proposing a new rule to provide that, when processing applications for which the Commission selects the channel, any channel in the appropriate frequency range that becomes available before an application is (1) acted upon (if no random selection process is necessary) or (2) included in a random selection process (if held), may be assigned, regardless of whether it was available when the application was filed.

Effective Radiated Power Limits

We propose to consolidate all transmitting power limits applicable to stations in each service or type of operation into a single section in the rules governing that service or type of operation. Currently, there are no power limits in the rules governing the Rural Radio Service, including BETRS, other than for meteor burst systems. We seek comment as to what these limits should be. Although we have generally specified power limits in watts, we invite comment as to whether we should specify them in dBW instead, or in the alternative, whether we should specify a fixed percentage (such as 5%) for the accuracy with which transmitting power must be measured or maintained.

Technical Channel Assignment Criteria

We propose a new rule to replace 47 CFR 22.15(b)(2)(i) and 47 CFR 22.504, which outline procedures for determining harmful interference between co-channel stations. We propose to adopt a new method employing formulas (and in the case of 931 MHz paging, tables) for determining service areas and interfering contours. The proposed formulas closely track the contours calculated using the Carey procedures. We seek comment on whether these rules should also be applied to Rural Radio Service.

Protection of Fixed Receivers on Mobile Channel

We wish to establish a new method to protect fixed receivers on the mobile channels from base or fixed transmitters using those channels. In Flexible Allocation of Frequencies in the Public Mobile Services (Report and Order), 54 FR 11535, March 21, 1989, we indicated that applicants for base and fixed transmitters to operate on the mobile channel should demonstrate non-interference with fixed receivers in accordance with a technical exhibit in that proceeding. Furthermore, we stated that such authorizations would be granted on a developmental basis. Since that time, it has come to our attention that these restrictions severely limit the use of the mobile channel by base and fixed stations. We believe, however, that any other criteria designed to provide protection in theory to existing and future fixed receivers would likely be as stringent. Nevertheless, we solicit comment as to a new protection criteria that will enable licensees to provide an appropriate level of protection to fixed receivers while, at the same time, making more effective use of the mobile channels. In the alternative, we propose to allow use of mobile channels for fixed and base operations subject to the condition that such use does not interfere with existing systems only. If after grant, interference occurs, the Commission would be able to order the licensee to suspend operation of particular base or fixed transmitters on the mobile frequency until such interference is resolved.

Additional Channel Policies

We propose to revise 47 CFR 22.16 and 47 CFR 22.516 to remove the traffic loading requirements. Furthermore, we propose to assign no more than two channels in an area to a carrier in an application cycle. Thus, a carrier would apply for no more than two channels, receive the authorization, construct the stations and notify the Commission of commencement of operation before applying for addition channels in the area. The proposed "two channels at a time" rule would replace the current requirement for traffic loading studies.

Use of Mobile Channels for Control Transmitter

We propose to revise 47 CFR 22.518. This rule was established to allow licensees to install and operate a moderate power control station with a relatively low antenna to control the base station of a two-way mobile telephone system. The principal concern of the current rule is that subscribers not be able to override this control function. Because most former two-way systems in the Public Land Mobile Service are now used for paging, several licensees have asked the MSD staff for interpretations of current § 22.518 as it may apply to multi-site paging systems. However, controlling a paging system now means installing a high omnidirectional antenna driven by high power transmitter, and transmitting subscriber traffic to multiple base station sites continuously. Obviously there is a much greater potential for interference from this type of operation to fixed receivers on the mobile channel. We request comment on the continued need for this rule, on what role it may play in the current environment, and whether additional technical parameters or duty cycle limits should be imposed to provide protection for fixed receivers.

Grandfathered Dispatch Service

We propose to revise 47 CFR 22.519 to state more clearly that only carriers who have continuously provided service since they received authorization to do so (prior to January 1, 1982) may continue to provide such service. We seek to determine whether any carriers are in fact providing dispatch service. If no carriers are providing such service pursuant to this rule, we propose to eliminate the rule.

UHF Television Channels

We propose revisions to the technical requirements designed to prevent interference to UHF television from point-to-multipoint and trunked mobile stations. We converted the graphs in the

current rules to tables. For point-to-multipoint operation, provisions related to mobile transmitters were removed, as there are no mobile transmitters in point-to-multipoint operation. For trunked mobile operation, provisions related to cities where these channels are no longer available were removed.

Basic Exchange Telephone Radio Systems

At this time the Commission does not have any technical rules for assignment of channels to BETRS in the Rural Radio Service. Because BETRS use the same channels as stations in the Public Land Mobile service, we believe that some technical rules are necessary to protect BETRS and paging and radiotelephone stations from mutual interference. We request comments as to what rules are necessary to govern channel assignments for BETRS, and what technical criteria should be used. Currently, the rules list channel groups in the 816–865 MHz for BETRS. However, it has come to our attention that there are few, if any, locations available for BETRS under the distance limitations needed to protect private radio systems. No applications have been filed for these channels. We seek comment as to whether viable locations are available for BETRS use of these channels under the rules and whether any demand for BETRS exists in these locations. If no locations are available or no demand exists for BETRS on these channels, we propose to remove them from the BETRS rules and request comment on possible other Public Mobile Services utilizations for these channels.

Technical Assignment Criteria for Air-ground Service

We propose to establish technical channel assignment criteria to replace the allotment table in 47 CFR 22.521(b) governing the locations and channels of ground stations. Under the current rules, applicants seeking to locate a ground station anywhere except for the designated locations in the table are required to petition for a change in the table (requiring a rule making proceeding). The proposed rule seeks to simplify and streamline the procedure for obtaining authorization for new or different locations for service. The proposed rule would establish distance separation criteria for co-channel ground stations and requirements limiting to six the number of channels within a 320 kilometer radius of the proposed antenna location. Under the proposed rules, parties wishing to use a new or different location could apply for it without the need for rule making. Action on such applications would be taken at the staff level. We believe that the proposed rules would ensure that nationwide coverage is maintained, while allowing more flexibility for licensees to respond to local air-ground markets. We also propose a new rule to govern applications for additional ground station channels to provide 450 MHz air-ground service. We propose to assign only one channel in an area per application cycle (up to a maximum of six ground station channels for any one licensee in an area). This policy is intended to promote competition and to prevent warehousing. We propose that any mutually exclusive applications to provide 450 MHz air-ground service be processed on a "first come, first served" basis. Mutually exclusive applications filed on the same day would be included in a random selection process.

AGRAS Compatibility Requirement

We propose to require by rule the technical and operational compatibility specifications currently used by the vast majority of stations providing general aviation air-ground service in the 450 MHz frequency range. All stations would be required to comply with the technical and operational requirements contained in the document "Technical Reference, Air-ground Radiotelephone Automated Service (AGRAS), System Operation and Equipment Characteristics" dated April 12, 1985. Any stations still operating under the original technical standards would be allowed to continue to do so until January 1, 1994. We seek comment as to whether there are any stations still operating under the original standards.

Cellular Service

We propose to consolidate the existing requirement that cellular licensees provide service to subscribers in good standing, and other rules related to service provided by cellular carriers. The proposed rule also includes special provisions for alternative cellular technologies and auxiliary service, contained currently in 47 CFR 22.930. In this regard, we propose to eliminate the restriction limiting fixed service to Basic Exchange Telecommunications Radio Systems (BETRS). It appears that this restriction on incidental fixed services is unnecessary.

Channels for Cellular Service

We propose to eliminate the wireline carrier set-aside provisions of 47 CFR 22.902. These set-aside provisions for separate wireline and non-wireline channels applied only to initial authorizations for the MSAs, NECMAs and RSAs. Once both eligible carriers in these markets have been authorized, the purpose of the set-aside has been served and the maintenance of the set-aside rule is no longer justified.

Cellular Market Areas

We propose to delete the list of the top-30 cellular MSA markets from our rules. There is no reason why this information must be codified. To ensure that this information is available to the public, the MSD staff issued a Public Notice listing all of the cellular markets and the counties they comprise. See Public Notice, "Cellular MSA/RSA Markets and Counties," Mimeo No. 21538 (January 24, 1992).

Effective Radiated Power Limits

We propose to eliminate the provision of 47 CFR 22.905 that exempts cellular base transmitters from the height-power limitations if coordination with other licensees is carried out. We believe this exemption is no longer appropriate.

Electronic Serial Numbers

We propose a new rule to help reduce fraudulent use of cellular equipment caused by tampering with the Electronic Serial Numbers (ESN) that identify mobile equipment to cellular systems. According to one industry estimate, cellular carriers lost over $100 million to this type of fraud in 1990. The Commission believes that reducing this type of fraud is in the public interest because such losses, if allowed to continue unabated, will eventually affect carriers' abilities to continue to provide affordable rates. The proposed rule establishes anti-fraud technical specifications for mobile equipment.

Evaluation of Cellular Applications

We propose to revise 47 CFR 22.916 which delineates the hearing designations procedures for cellular applications. In particular, we propose to delete paragraphs (a)(1)–(a)(4), which are applicable only to the top-30 cellular markets. The remainder of those rules, paragraphs (b)(5)–(b)(9), will be utilized in the hearing procedures for cellular renewal challenges.

Demonstration of Financial Qualifications

We propose to revise our financial requirement rules to eliminate the separate financial requirements currently applicable to the top-120 markets, markets beyond the top-120, and the rural service areas. We propose to replace these rules with uniform financial requirements that would apply to all applications for initial cellular systems. However, for those RSA

markets with initial authorizations that are subject to further lotteries, rules in effect at the time the RSA applications were filed will continue to govern outstanding RSA proceedings.

System Identification Numbers

We propose to modify the present procedure for changing cellular System Identification Number codes (SID codes). Each cellular system transmits a SID code that enables mobile subscriber equipment to determine whether it is in communication with the system to which it is a subscriber, or alternatively, whether it is considered to be a roamer. The MSD has been assigned SID codes as a license term. However, licensees frequently seek to change the initially assigned SID code in order to consolidate territory or to implement "home roaming" agreements. As no procedures have been formally developed for SID code changes, licensees seeking to change their SID codes currently write a letter to MSD requesting the change. The MSD then issues a modified authorization listing the changed SID code. The licensee must receive this modified authorization before using the new code. Under the new rule that we are proposing, system operators could change their SID code at will, and would be required only to notify the Commission by filing an FCC Form 489 that the SID code is changed. We believe that the rule we propose would not be more burdensome than the current procedures. However, we also believe that it is not essential that the Commission be the organization to assign these codes. There are no public interest issues involved in the assignment of SID codes, and there is no particular reason that SID codes must be a term of cellular authorizations. It might be more efficient and less burdensome if a private national cellular industry organization were to assign these codes outside of the FCC licensing process. Therefore, in the alternative to our proposal, we also seek comment on this possibility.

Five Year Fill-in Period

We propose to consolidate all rules relating to the five year fill-in period for first-in-market cellular systems in the MSAs and RSAs (e.g. the rule requiring the filing of a system information update). Also, we propose to codify existing practice with regard to "partitioned RSAs", which are RSAs where the first licensee has allowed one or more additional carriers to establish independently authorized cellular systems within the market during the five year fill-in period.

Unserved Area Licensing Phases, Procedures and Filing Windows

We propose to consolidate the rules governing the filing and processing of unserved area cellular applications. We note that, as of the time the MSD staff drafted this Notice of Proposed Rule Making, petitions for reconsideration of the decisions in CC Docket No. 90–6 (First Report and Order, 56 FR 58503, November 20, 1991 and Second Report and Order, 57 FR 13646, April 17, 1992) are pending. Although the proposals herein represent our thinking as to the organization of cellular rules, it should be understood that substantive issues currently under consideration in other proceedings (such as CC Docket No. 90–6) will be resolved based on the record of those proceedings, and any rules finally adopted in this proceeding will be conformed to any decisions reached in the other proceedings. Thus, this Notice is not intended to provide a "second bite at the apple" and it is not necessary or desired that parties refile comments from other concurrently pending proceedings.

Candian Condition

We propose to codify a provision of the most recent agreement between the United States and Canada specifying that authorizations for cellular systems within 72 kilometers (45 miles) of the United States-Canada border using the same channel block as cellular systems in adjacent territories in Canada shall include a condition on the authorization requiring the licensee to coordinate transmitter installations with the licensees operating the Canadian cellular systems. This condition is intended to eliminate harmful interference and ensure equal use of the channel block by both countries.

Mexican Condition

We also propose to codify a provision of the most recent agreement between the United States and Mexico that includes provisions similar to the Canadian condition noted above. In addition, the condition states that United States cellular system operators shall not contract with Mexican customers and that operation of mobile units in Mexico is not permitted without the permission of the Mexican government.

Rules Governing Initial Cellular Systems

Because we propose to eliminate many of the detailed rules governing the processing of initial cellular authorizations, we also propose to adopt a new rule providing that any remaining pending applications for initial cellular authorizations will continue to be processed in accordance with the rules that were in effect at the time the applications were filed.

FCC Forms

The proposed rewrite of part 22 entails substantial changes to FCC Forms 401, 489 and 490. These changes have several purposes: (1) To conform to proposed changes in part 22; (2) To prepare for future magnetic and electronic filing; (3) To simplify the forms; (4) To consolidate the purposes for which the forms are to be used. The newly designed forms are structured with modules that correspond to tables in future relational data bases. By receiving the necessary information in this format, the MSD staff will be able to enter the data more easily, and thus reduce the time needed to process applications while, at the same time, maintaining the integrity of the data bases. With respect to the changes to FCC Form 489, we point out that although Form 489 was initially designed to notify the Commission of the status of Public Mobile Services facilities, over the years the form has become a "catch-all" for requests that do not require Public Notice. We intend that Form 489 be used for notifications and Form 401 be used for applications, amendments and other requests requiring a Commission action or response. Note however, that the fee amounts for the various types of filings will not change as a result of a change in the required form. The certifications of some of the forms are strengthened to reflect a greater responsibility for the correctness of technical exhibits. A certification regarding denial of federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 862a) is added. FCC Form 155 (Fee collection) is incorporated into each of the three forms, as required by the Office of Management and Budget. Finally, we not that Telocator and CTIA have requested the elimination of several information collection requirements in these forms, and we have tried to accommodate as many of these requests as possible.

List of Subjects in 47 CFR Part 22

Public mobile services, Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–15473 Filed 6–30–92; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

48 CFR Parts 228, 232, and 252

Department of Defense Federal Acquisition Regulation Supplement; Subcontractor Payment Protections

AGENCY: Department of Defense (DOD).

ACTION: Proposed rule with requests for comments.

SUMMARY: The Defense Acquisition Regulations Council is proposing changes to the Defense FAR Supplement (DFARS) to amend parts 228, 232, and 252 to implement section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Pub. L. 102–190). The proposed rule includes a requirement that DoD construction contractors provide a copy of the payment bond to prospective subcontractor and suppliers upon the request of such entities.

DATES: Comments on the proposed rule should be submitted in writing to the address show below on or before July 31, 1992 to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, attn: Mr. Eric Mens, IMD 3D139, OUSD(A), 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 697–9845. Please cite DAR Case 91–311 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Mens (703) 697–7266.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule implements Section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Pub. L. 102–190), which requires the Secretary of Defense to issue regulations concerning the disclosure of certain information to subcontractors and suppliers performing, or proposing to perform, under a DoD prime contract. The proposed rule requires disclosure of prime contractors requests for progress or other payments and/or whether final payment has been made; specifies actions the contracting officers may take in instances of subcontractor assertions of nonpayment; for construction contracts, provides that DoD may release certain surety information, including copies of the prime contractor's payment bond, and requires that the prime contractor provide copies of the payment bond to prospective subcontractors and suppliers at their request.

Section 806(b)(2) of Public Law 102–190 requires the Secretary of Defense to publish a final rule by September 4, 1992. Section 806(a)(3)(B) states that the requirement for prime contractors to provide a copy of the payment bond (see 228.106–6(2)) applies to any DoD contract covered by the Miller Act for which a solicitation is issued 60 days after the effective date of the final rule.

B. Regulatory Flexibility Act

The proposed rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*, although the Department of Defense estimates that, based on data available for Fiscal Year 1991, less than 20 percent of all, or a total of 1,100, small business construction contractors will be impacted. The requirement to provide a copy of the payment bond to prospective subcontractors and suppliers applies to all businesses that enter into a construction prime contract with DoD which is subject to the Miller Act (40 U.S.C. 270a–270d). An Initial Regulatory Flexibility Analysis has been prepared and submitted to the Chief Counsel for Advocacy of the Small Business Administration. The IRFA states that it is impossible to accurately estimate the number of small businesses that may be impacted because it is impossible to accurately determine the number of small businesses that prospectively will hold DoD construction contracts subject to the Miller Act and subsequently, the number of prospective subcontractors or suppliers that will request a copy of the payment bond. However, based on available data, DoD estimates that the proposed rule will impact less than 20 percent of all small businesses that will hold DoD construction contracts which will be subject to the Miller Act.

A copy of the IRFA may be obtained from: Defense Acquisition Regulations Council, Attn: Mr. Eric R. Mens, IMD 3D139, OUSD(A), 3062 Defense Pentagon, Washington, DC 20301–3063. Comments are invited. Comments from small entities concerning the affected DFARS parts will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DAR Case 91–311 in all correspondence.

C. Paperwork Reduction Act

The proposed rule imposes additional recordkeeping requirements, or information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et. seq.* DoD is requesting OMB approval for this new information collection requirement.

List of Subjects in 48 CFR Parts 228, 232, and 252

Government procurement.

Claudia Naugle,

Executive Editor, Defense Acquisition Regulations System

Therefore, it is proposed that 48 CFR parts 228, 232, and 252 be amended as follows:

1. The authority citation for 48 CFR parts 228, 232, and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, and Defense FAR Supplement 201.301.

PART 228—BONDS AND INSURANCE

2. Sections 228.106, 228.106–4, 228.106–4–70, 228.106–6, and 228.106–7 are added to read as follows:

228.106 Administration.

228.106–4 Contract clause.

228.106–4–70 Additional contract clause.

Use the clause at 252.228–7006, Subcontractor Requests for Bonds, in all solicitations and contracts which are subject to the Miller Act (see FAR 28.102–1).

228.106–6 Furnishing information.

Section 806(a)(2) and (3) of Public Law 102–190 requires that DoD and its contractors provide subcontractors information on payment bonds. Upon the written or oral request of a subcontractor/supplier, or prospective subcontractor/supplier, under a contract subject to the Miller Act—

(1) The contracting officer shall promptly provide any of the following:

(i) Name and address of the surety or sureties on the payment bond.

(ii) Penal amount of the payment bond.

(iii) Copy of the payment bond. The contracting officer may impose reasonable fees to cover the cost of copying and providing a copy of the payment bond.

(2) The contractor shall promptly provide a copy of its payment bond.

228.106–7 Withholding contract payments.

(a) Withholding may be appropriate in other than construction contracts (see 232.970–1(c)).

PART 232–CONTRACT FINANCING

3. Sections 232.970, 232.970–1, and 232.970–2 are added to read as follows:

232.970 Payment of subcontractors.

232.970-1 Subcontractor assertions of nonpayment.

(a) In accordance with Public Law 102-190, title VIII, section 806(a)(4), upon the assertion by a subcontractor or supplier of a DoD contractor that the subcontractor or supplier has not been paid in accordance with the payment terms of the subcontract, purchase order, or other agreement with the contractor, the contracting officer may determine—

(1) For a construction contract, whether the contractor has made—

(i) Progress payments to the subcontractor or supplier in compliance with chapter 39 of title 31, United States Code;

(ii) Final payment to the subcontractor or supplier in compliance with the terms of the subcontract, purchase order, or other agreement;

(2) For a contract other than construction, whether the contractor has made progress payments, final payments, or other payments to the subcontractor or supplier in compliance with the terms of the subcontract, purchase order, or other agreement;

(3) For any contract, whether the contractor's certification of payment of a subcontractor or supplier accompanying its payment request to the Government is accurate.

(b) If, in making the determination in paragraph (a)(1) of this subsection, the contracting officer finds the subcontractor's/supplier's assertion to be valid, the contracting officer may encourage the contractor to make timely payment to the subcontractor or supplier. (See also 232.970-1(d)).

(c) If, in making the determination in paragraph (a)(2) of this subsection, the contracting officer finds the subcontractor's/supplier's assertion to be valid, the contracting officer may—

(1) Encourage the contractor to make timely payment to the subcontractor or supplier; or

(2) In accordance with the applicable payment clauses, reduce or suspend progress payments to the contractor.

(d) If the contracting officer determines that a certification referred to in (a)(3) of this subsection is inaccurate in any material respect, the contracting officer shall initiate administrative or other remedial action.

232.970-2 Subcontractor requests for information.

(a) Public Law 102-190, title VIII, section 806(a)(1), requires that the DoD provide subcontractors information on payments made to the prime contractor.

(b) Upon the request of a subcontractor or supplier under a DoD contract, the contracting officer shall promptly advise the subcontractor or supplier as to—

(1) Whether the contractor has submitted requests for progress payments or other payments under the contract; and

(2) Whether final payment has been made.

(c) This subsection applies to any contract that is in effect on or after August 31, 1992. This subsection does not apply to matters that are—

(1) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy; and

(2) Properly classified pursuant to such Executive Order (see 5 U.S.C. 552(b)(1)).

Subpart 252.2—Texts of Provisions and Clauses

4. A new section 252.228-7006 is added to read as follows:

252.228-7006 Subcontractor Requests for Bonds.

As prescribed in 228.106-4-70, use the following clause:

Subcontractor Requests for Bonds (June 1992)

In accordance with sections 806(a) (2) and (3) of Public Law 102-190, upon the request of a prospective subcontractor or supplier offering to furnish labor or material for the performance of this contract for which a payment bond has been furnished to the Government pursuant to the Miller Act, the Contractor shall promptly provide a copy of such payment bond to the requestor.

(End of clause)]

[FR Doc. 92-15410 Filed 6-30-92; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[OST Docket No. 48215, Notice 92-9]

RIN 2105-AB90

Standard Time Zone Boundary in the State of North Dakota; Proposed Relocation

AGENCY: The Department of Transportation (DOT), Office of the Secretary (OST).

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the Board of Commissioners of Oliver County, North Dakota, DOT proposes to relocate the boundary between central and mountain time in the State of North Dakota. DOT proposes to relocate the boundary in order to move Oliver County from the mountain time zone to the central time zone.

DATES: Comments should be received by August 31, 1992 to be assured of consideration. Comments received after that date will be considered to the extent practicable. If the time zone boundary is changed as a result of this rulemaking, the expected effective date would coincide with the nation's return to standard time on Sunday, October 25, 1992.

ADDRESSES: Comments should be sent to Documentary Services Division, Attention: OST Docket No. 48215, Department of Transportation, C-55, room 4107, Washington, DC 20590 ((202) 366-9323). Persons who wish to have acknowledgment that their comments have been received should include a self-addressed stamped postcard on which the Docket Clerk will note the date and time of receipt.

PUBLIC HEARINGS: Two public hearings will be chaired by a representative of DOT at the Courthouse Meeting Room in Center, North Dakota, at 1 p.m. and 8 p.m. on Tuesday, August 4, 1992. The hearings will be informal and will be tape recorded for inclusion in the docket. Persons who desire to express opinions or ask questions at the hearings do not have to sign up in advance or give any prior notification. To the greatest extent practicable, the DOT representative will provide an opportunity to speak for all those wishing to do so.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the Assistant General Counsel for Regulation and Enforcement (C-50), U.S. Department of Transportation, room 10424, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9306.

SUPPLEMENTARY INFORMATION:

North Dakota Time Observance

Historically, North Dakota has been a State with a shifting time zone boundary. Beginning in 1883, mountain standard time was observed in the southwest and a few locations in the northwest, and central standard time in the rest of the State. In 1929, the Interstate Commerce Commission, the federal agency with authority to change time zone boundaries, extended the central zone to include nearly all of western North Dakota, except a small area in the southwest corner of the State. When the Department of Transportation was created in 1966, Congress transferred authority to

change time zone boundaries to the new agency. On October 21, 1968, in response to a petition from the Governor of North Dakota and after notice and comment, the Department of Transportation placed 14 counties lying south and west of the Missouri River (including Oliver County) in the mountain time zone. The change was made to accommodate the historical pattern of time observed in North Dakota.

Currently, the State is in two time zones, with approximately three-quarters observing central time and one-quarter observing mountain time. The current time zone boundary is unusual because it splits four counties and runs down the middle of various bodies of water. In addition, the legal description of the boundary is extremely technical, and difficult for non-experts to understand.

Request by Commissioners

A formal resolution from the Board of Commissioners of Oliver County was received by DOT on September 9, 1992, requesting that Oliver County be moved from the mountain time zone to the central time zone. Oliver County is adjacent to the central time zone on the east and on part of its north and south boundaries.

The resolution stated that the requested change, if made, would serve the "convenience of commerce." In its submission, the county representative stated that the City of Center is the only incorporated city in Oliver County. Virtually all the supplies for businesses in the city of Center and Oliver County are shipped from the Bismarck-Mandan area. The Bismarck-Mandan area, located thirty-five miles from the city of Center, operates on central time. It stated that virtually all television and radio broadcasts come from Bismarck, the metropolitan trade center for the area. Also, the Bismarck Tribune is the daily newspaper that serves the county.

According to the submission, Oliver County has no regular passenger travel services. Residents normally must travel to Bismarck for bus, rail, or passenger airline services (Bismarck International Airport). Also, residents of the area regularly travel to Bismarck-Mandan for other servcies such as health care and recreational activities. As evidence of this fact, the highway linking the county to the Bismarck-Mandan location was recently upgraded.

In terms of employment and commuting patterns, the submission stated that the majority of residents are employed in the coal energy industry. The Commissioners noted that there is one major coal mine, BNI Coal, and one power plant facility, Minnkota Power, within the county and that the majority of residents work at these facilities. Both BNI and Minnkota have their headquarters located in the central time zone. In addition, a few of the residents of Oliver County commute to the Bismarck-Mandan area for employment.

The submission stated that although the coal industry is the prime basis of the area economy, there is also a considerable agricultural industry. Both the agricultural and coal industry rely heavily on supplies from the Bismarck-Mandan market area.

The County Commission put the question of whether to change the time zone on the ballot in its June 12, 1990, primary election. The results of that election indicated that 675 favored changing to central time and 295 opposed the change.

The Proposal

Under the Standard Time Act of 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260–64), the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. The standard in the statute for such decisions is "regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce."

Under DOT procedures to change a time zone boundary, the Department will generally begin a rulemaking proceeding if the highest elected officials in the area make a *prima facie* case for the proposed change. DOT has determined that the Resolution and supporting information submitted by the petitioners make a *prima facie* case, which warrants opening a proceeding to determine whether the change should be made. Consequently, in this notice of proposed rulemaking, DOT is proposing to make the requested change and is inviting public comment.

Although the Olver County Commission has submitted sufficient information to begin the rulemaking process, the actual decision as to whether to make the change will be based upon information received at the hearing or submitted in writing to the Office of the Secretary's docket. Persons supporting or opposing the change should not assume that the change will be made merely because DOT is making the proposal. Our decision will be made on the basis of information developed during the rulemaking proceeding. The proposed change would have no impact on the observance of daylight saving time. Clocks would still be moved forward or back an hour each spring and fall regardless of the final decision in this case.

Regulatory Analyses and Notices

Executive Order 12291 and DOT Regulatory Policies and Procedures

This proposed rule has been reviewed under Executive Order 12291, and it has been determined that this is not a major rule. Furthermore, it is not a significant rulemaking under DOT Regulatory Policies and Procedures, 44 FR 111034, because of its highly localized impact. The economic impact would be so minimal that it does not warrant preparation of a reglatory evaluation.

Executive Order 12612

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule does not have sufficient federalism implications to warrent the preparation of a Federalism Assessment. Although time observance is of great local interest, Congress has delegated the authority to the Secretary of Transportation to change time zone boundaries and to oversee the observance of uniform time.

Executive Order 12630

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the proposed rulemaking does not pose the risk of a taking of constitutionally protected private property.

Regulatory Flexibility Act

I certify under the criteria of the Regulatory Flexibility Act that this proposal, if implemented, would not have a significant economic impact on a substantial number of small entities. The rulemaking would only affect one county and would not result in a large economic impact.

Paperwork Reduction Act

There are no reporting or recordkeeping requirements associated with this rulemaking.

List of Subjects in 49 CFR Part 71:

Time.

Accordingly, the Department proposes to amend 49 CFR part 71, *Standard Time Zone Boundaries,* to read as follows:

1. The authority citation for part 71 would continue to read:

Authority: Secs. 1–4, 40 Stat. 450, as amended; sec. 1, 41 Stat. 1446, as amended;

secs. 2–7, 80 Stat. 107, as amended; 100 Stat. 764; Act of Mar. 19, 1918, as amended by the Uniform Time Act of 1966 and Pub. L. 97–449, 15 U.S.C. 260–267; Pub. L. 99–359; 49 CFR 1.59(a).

2. Paragraph (a) of § 71.7, *Boundary line between central and mountain zones*, would be amended to read:

§ 71.7 Boundary line between central and mountain zones.

(a) *Montana-North Dakota.* Beginning at the junction of the Montana-North Dakota boundary with the boundary of the United States and Canada southerly along the Montana-North Dakota boundary to the Missouri River; thence southerly and easterly along the middle of that river to the midpoint of the confluence of the Missouri and Yellowstone Rivers; thence southerly and easterly along the middle of the Yellowstone River to the north boundary of T. 150 N., R. 104 W.; thence east to the northwest corner of T. 150 N., R. 102 W.; thence south to the southwest corner of T. 149 N., R. 102 W.; thence east to the northwest corner of T. 148 N., R. 102 W.; thence south to the northwest corner of 147 N., R. 102 W.; thence east to the southwest corner of T. 148 N., R. 101 W., thence south to the middle of the Little Missouri; thence easterly and northerly along the middle of that river to the midpoint of its confluence with the Missouri River; thence southerly and easterly along the middle of the Missouri River to the midpoint of its confluence with the northern land boundary of Oliver County; thence west along the northern county line to the northwest boundary; thence south along the western county line to the southwest boundary; thence east along the southern county line to the northwest corner of T. 140 N., R. 83 W.; thence south to the southwest corner of T. 140 N., R. 83 W.; thence east to the southeast corner of T. 140 N., R. 82 W.; thence south to the middle of the Heart River; thence easterly and northerly along the middle of that river to the southern boundary of T. 139 N., R. 82 W.; thence east to the middle of the Heart River; thence southerly and easterly along the middle of that river to the midpoint of the confluence of the Heart and Missouri Rivers; thence southerly and easterly along the middle of the Missouri River to the northern boundary of T. 130 N., R. 80 W.; thence west to the northwest corner of T. 130 N., R. 80 W.; thence south to the North Dakota-South Dakota boundary; thence easterly along that boundary to the middle of the Missouri River.

* * * * *

Issued under authority delegated to me in 49 CFR 1.57(a)

Dated: June 19, 1992.

Arthur J. Rothkopf,

General Counsel.

[FR Doc. 92–15414 Filed 6–30–92; 8:45 am]

BILLING CODE 4910–62–M

Notices

Federal Register
Vol. 57, No. 127
Wednesday, July 1, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Assistant Secretary for Food and Consumer Services; International Conference on Nutrition

Draft Global Plan of Action and draft Declaration prepared jointly by the Food and Agriculture Organization and the World Health Organization for the International Conference on Nutrition (ICN). Opportunity to request copies of both documents and to provide written comments.

AGENCY: Office of the Assistant Secretary for Food and Consumer Services, USDA, Office of the Assistant Secretary for Health, DHHS.

ACTION: Notice.

SUMMARY: The Department of Agriculture (USDA) and the Department of Health and Human Services (DHHS) announce the availability of (1) A draft Global Plan of Action and (2) a draft Declaration prepared jointly by the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Written public comment on both documents is invited by July 24, 1992.

DATES: To be assured of consideration, written comments should be postmarked no later than July 17, 1992.

FOR FURTHER INFORMATION CONTACT: For copies of both draft documents, write to Floyd Miles, Food and Nutrition Service (USDA), room 208, 3101 Park Center Drive, Alexandria, VA 22302, or phone (703) 305–2133. Written comments should be sent to same.

SUPPLEMENTARY INFORMATION: The International Conference on Nutrition (ICN) will be held in Rome, Italy, in December 1992. It is jointly sponsored by the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO). As many as 150 nations are expected to send delegations, and many nongovernment organizations and private business groups are also likely to participate. The Conference will look critically at the problems of hunger, malnutrition, and diet-related diseases in both developing and developed nations and will also examine ways in which to foster added international cooperation in the fields of nutrition and food safety and quality.

The countries participating in the December Conference have each produced country papers in line with the principal background document for the Conference—"An Assessment and Analysis of Trends and Current Problems in Nutrition." These papers were prepared following an outline produced by the joint FAO/WHO Secretariat for the ICN.

This notice is not published pursuant to the Administrative Procedures Act.

Dated: June 24, 1992.

Ann Chadwick,

Acting Assistant Secretary for Food and Consumer Services U.S. Department of Agriculture.

[FR Doc. 92–15439 Filed 6–30–92; 8:45 am]

BILLING CODE 3410–30–M

Federal Grain Inspection Service

Request for Comments on the Applicants for Designation in the Geographic Area Currently Assigned to the Cairo (IL) Agency

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: FGIS requests interested persons to submit comments on the applicants for designation to provide official services in the Geographic area currently assigned to the Cairo Grain Inspection Agency, Inc. (Cairo).

DATES: Comments must be postmarked, sent by telecopier (FAX), or electronic mail on or before July 31, 1992.

ADDRESSES: Comments must be submitted in writing to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36HDUNN]. ATTMAIL and FTS2000MAIL users may respond to !A36HDUNN. Telecopier (FAX) users may send responses to the automatic telecopier machine at 202–720–1015, attention: Homer E. Dunn. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the May 1, 1992, **Federal Register** (57 FR 18863), FGIS asked persons interested in providing official services in the Cairo geographic area to submit and application for designation. Applications were to be postmarked by June 1, 1992. Cairo and the Missouri Department of Agriculture (Missouri), the only applicants, applied for designation to serve the entire area currently assigned to Cairo.

FGIS is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants for designation. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of these applicants. All comments must be submitted to the Compliance Division at the above address.

Comments and other available information will be considered in making a final decision. FGIS will publish notice of the final decision in the **Federal Register**, and FGIS will send the applicants written notification of the decision.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: June 19, 1992.

Neil S. Porter,

Acting Director, Compliance Division.

[FR Doc. 92–15268 Filed 6–30–92; 8:45 am]

BILLING CODE 3410–EN–M

Designation of the Eastern Iowa (IA) Agency

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: FGIS announces the designation of Eastern Iowa Grain Inspection and Weighing Service, Inc. (Eastern Iowa), to provide official inspection services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: August 1, 1992.

ADDRESSES: Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the February 3, 1992, **Federal Register** (57 FR 3986), FGIS announced that the designation of Eastern Iowa ends on July 31, 1992, and asked persons interested in providing official services within the specified geographic area to submit an application for designation. Applications were to be postmarked by March 4, 1992.

There were two applicants: Eastern Iowa and Kankakee Grain Inspection, Inc. (Kankakee). Eastern Iowa applied for the entire geographic area currently assigned to it, except for: Leland Farmer's Company, located in Leland, Lasalle County, Illinois (located inside Kankakee's area). Kankakee, a currently designated agency, applied for Leland Farmer's Company, located in Leland, Lasalle County, Illinois. Eastern Iowa and Kankakee are contiguous agencies.

FGIS named and requested comments on the applicants for designation in the April 1, 1992, **Federal Register** (57 FR 11062). Comments were to be postmarked by May 18, 1992. FGIS received no comments by the deadline.

FGIS evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and according to Section 7(f)(1)(B), determined that Eastern Iowa and Kankakee are able to provide official services in the geographic areas for which they applied.

Effective August 1, 1992, and ending July 31, 1995, Eastern Iowa is designated to provide official inspection services in the geographic area specified above.

Effective August 1, 1992, and ending January 31, 1994, Kankakee Grain Inspection, Inc., is designated to provide official inspection services at Leland Farmer's Company, located in Leland, Lasalle County, Illinois, in addition to the area they are already designated to serve.

Interested persons may obtain official services by contacting Eastern Iowa at 319–322–7140, and Kankakee at 815–932–2851.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: June 19, 1992.

Neil S. Porter,

Acting Director, Compliance Division.

[FR Doc. 92–15270 Filed 6–30–92; 8:45 am]

BILLING CODE 3410–EN–M

Request for Applications From Persons Interested in Designation to Provide Official Services in the Geographic Areas Presently Assigned to the Alva (OK) and Schaal (IA) Agencies

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations shall end not later than triennially and may be renewed. The designations of Thomas Oller dba Alva Grain Inspection Department (Alva), and Lewis D. Schaal dba D.R. Schaal Agency (Schaal), will end December 31, 1992, according to the Act, and FGIS is asking persons interested in providing official services in the specified geographic areas to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before July 31, 1992.

ADDRESSES: Applications must be submitted to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454, Telecopier (FAX) users may send their application to the automatic telecopier machine at 202–720–1015, attention: Homer E. Dunn. If an application is submitted by telecopier, FGIS reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes FGIS' Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

FGIS designated Alva, headquartered in Alva, Oklahoma, and Schaal, headquartered in Belmond, Iowa, to provide official grain inspection services under the Act on January 1, 1989.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in section 7(f) of the Act. The designations of Alva and Schaal end on December 31, 1992.

The geographic area presently assigned to Alva, in the State of Oklahoma, pursuant to section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

Alfalfa, Beckham, Caddo, Custer, Dewey, Ellis, Greer, Harper, Kiowa, Major, Roger Mills, Washita, Woods, and Woodward Counties.

The geographic area presently assigned to Schaal, in the State of Iowa, pursuant to section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern Kossuth County line from U.S.Route 169; the northern Winnebago, Worth, and Mitchell County lines;

Bounded on the East by the eastern Mitchell County line; the eastern Floyd County line south to B60; B60 west to T64; T64 south to State Route 188; State Route 188 south to C33;

Bounded on the South by C33 west to T47; T47 north to C23; C23 west to S56; S56 south to C25; C25 west to U.S. Route 65; U.S.Route 65 south to State Route 3; State Route 3 west to S41; S41 south to C55; C55 west to Interstate 35; Interstate 35 southwest to the southern Wright County line; the southern Wright County line west to U.S. Route 69; U.S. Route 69 to C54; C54 west to State Route 17; and

Bounded on the West by State Route 17 north to the southern Kossuth County line; the Kossuth County line west to U.S. Route 169; U.S.Route 169 north to the northern Kossuth County line.

The following location, outside of the above contiguous geographic area, is part of this geographic area assignment: Gold Eagle Co-op, Eagle Grove, Wright County (located inside A.V. Tischer and Son, Inc.'s area).

Exceptions to Schaal's assigned geographic area are the following locations inside Schaal's area which have been and will continue to be

serviced by the following official agencies:

1. Central Iowa Grain Inspection Service, Inc.: Farmers Co-op Elevator Company, Chapin, Franklin County; Hampton Farmers Co-op Company, Hampton, Franklin County; and Farmers Community Co-op, Inc., Rockwell, Cerro Gordo County.

2. A.V. Tischer and Son, Inc.: Cargill, Inc., Algona, Kossuth County; Big Six Elevator, Burt, Kossuth County; Gold-Eagle, Goldfield, Wright County; and Farmers Co-op Elevator, Holmes, Wright County.

Interested persons, including Alva and Schaal, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified geographic areas is for the period beginning January 1, 1993, and ending December 31, 1995. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications for other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: June 19, 1992.

Neil S. Porter,

Acting Director, Compliance Division.

[FR Doc. 92–15269 Filed 6–30–92; 8:45 am]

BILLING CODE 3410–EN–M

Forest Service

Environmental Impact Statement for Oil and Gas Leasing on Lands Administered by the Ashley and Uinta National Forests; Duchesne, Uinta, and Wasatch Counties, Utah

AGENCY: USDA, Forest Service is the lead agency. USDI, Bureau of Land Management is a cooperating agency.

ACTION: Notice of intent to prepare environmental impact statement (EIS).

SUMMARY: The Forest Service, along with the Bureau of Land Management as a cooperating agency, will prepare an environmental impact statement for oil and gas leasing on lands administered by the Ashley and Uinta National Forests. The EIS will be tiered to the Forests' current Land and Resource Management Plans and associated Final Environmental Impact Statements.

DATES: Comments concerning the scope of the analysis should be received in writing by August 10, 1992.

ADDRESSES: Send written comments to Cynthia Swanson, Uinta National Forest, P.O. Box 1428, Provo, UT 84601.

FOR FURTHER INFORMATION CONTACT: Gordon Reid, 8230 Federal Building, 125 South State St., Salt Lake City, UT 84138. Telephone number (801) 524–5030.

SUPPLEMENTARY INFORMATION: The Forest Service will prepare an EIS for oil and gas leasing on the south unit of the Duchesne Ranger District of the Ashley National Forest, and portions of the Spanish Fork and Heber Ranger Districts of the Uinta National Forest. The preparation of an EIS is needed to comply with the National Environmental Policy Act (NEPA) in making the decision as to which lands are administratively available for leasing and the leasing decision for specific lands. With the passage of the Federal Onshore Oil and Gas Leasing Reform Act (FOOGLRA), the Forest Service was given the authority to object or not object to leasing of National Forest System lands and to prescribe lease stipulations deemed necessary to mitigate potential resource impacts and reduce conflicts with other National Forest uses. The final decision and issuance of leases is the authority of the Bureau of Land Management.

The proposed action is to offer leases for sale for all administratively available lands with stipulations needed to minimize impacts on other resource values or uses. The proposed action would apply lease stipulations as identified from the leasing matrices in the Forest Plans for the Ashley and Uinta National Forests.

The decisions to be made only involve federal minerals within the National Forest administrative boundary. Reasonably foreseeable oil and gas activities within the area will provide the basis for the evaluation of environmental consequences. However, approval of any subsequent activities, such as a proposal to drill a well, will require additional NEPA analysis at the time they are actually proposed.

Issues to be addressed in the EIS will be determined through public scoping. For this purpose, the Forests are requesting written comments and will hold open-house meetings in Duchesne, and Provo, Utah. The meeting in Provo will be held on July 21 in rooms L700 and L800 of the Utah County Administration Building, 100 North Center Street, from 5 to 9 p.m. The meeting in Duchesne will be held on July 22 in the main conference room of the Central Utah Water Conservancy District Building, 734 North Center Street, from 6 to 9 p.m.

Some of the preliminary issues identified include the effects of oil and gas leasing and potential subsequent activities on:

(1) Key wildlife habitats,

(2) Wetlands and riparian areas,

(3) Developed recreation sites,

(4) Sensitive visual resources,

(5) Sensitive soils and geologic hazards, and

(6) Economic values of intermingled private/state minerals.

Peter Karp, Forest Supervisor of the Uinta National Forest, and Duane Tucker, Forest Supervisor of the Ashley National Forest, are the responsible officials. The Bureau of Land Management has been identified as a cooperating agency. The Forest Service anticipates release of the Draft EIS for public comment in December, 1992, and completion of the Final EIS by June, 1993.

The comment period on the draft EIS will be 45 days from the date the notice of availability appears in the **Federal Register**. It is very important that those interested in the proposed action participate at that time. To be the most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

Dated: June 16, 1992.

Peter W. Karp,

Forest Supervisor, Uinta National Forest.

[FR Doc. 92-15370 Filed 6-30-92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Human Nutrition Information Service

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health

National Nutrition Monitoring Advisory Council: Meeting

SUMMARY: The National Nutrition Monitoring Advisory Council will hold its second meeting on July 15, 1992, 1 p.m. to 5 p.m. and July 16, 1992, 8:30 a.m. to 1 p.m. in the U.S. Department of Health and Human Service's Hubert H. Humphrey Building, Conference Room 703A, located at 200 Independence Avenue, SW., Washington, DC 20201. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Alanna J. Moshfegh, Co-Executive Secretary to the Council from USDA, Human Nutrition Information Service, U.S. Department of Agriculture, 6505 Belcrest Road, room 366, Hyattsville, MD 20782, (301) 436-8457; or Linda Meyers, Ph.D., Co-Executive Secretary to the Council from HHS, Public Health Service, Office of Disease Prevention and Health Promotion, room 2132, Switzer Building, 330 C Street SW., Washington, DC 20201, (202) 472-5307.

SUPPLEMENTARY INFORMATION: The responsibilities of the National Nutrition Monitoring Advisory Council are to evaluate the scientific and technical quality of the ten-year comprehensive plan and the effectiveness of the coordinated National Nutrition Monitoring and Related Research Program and to provide guidance to the Secretaries of USDA and HHS. This Council is also required by Public Law 101-445 to prepare annual reports to the Secretaries of both USDA and HHS, which include recommendations for improvement of the Program.

The first meeting of the Advisory Council was held on February 26 and 27, 1992. During this meeting, representatives from various Federal agencies provided the Council with an overview of the nutrition monitoring and related research activities across the Program. The development of the Ten-year Comprehensive Plan for the National Nutrition Monitoring and Related Research Program was also discussed.

The Council meeting agenda will include nutrition monitoring presentations from congressional and General Accounting Office staff. The Council will also discuss areas for focus in the next year and will begin to develop its annual report to the Secretaries. The public may file statements with the Council before or after the meeting by addressing them to either of the contact persons listed above.

Done at Washington, DC this 24th of June, 1992.

David A. Rust,

Associate Administrator, Human Nutrition Information Service, U.S. Department of Agriculture.

James A. Harrell,

Deputy Director, Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services.

[FR Doc. 92-15358 Filed 6-30-92; 8:45 am]

BILLING CODE 3410-KE-M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Definition and Concepts of Cotton Marketing Expenses as Used in Reporting the Price Received by Farmers for Cotton

The National Agricultural Statistics Service (NASS) is proposing to define the price received by farmers for cotton as an f.o.b. warehouse price for the 1992 crop year and succeeding crop years. The f.o.b. warehouse price includes the cost of transporting cotton to the warehouse and warehouse receiving charges but excludes other warehouse charges, such as compression and load out. Other marketing expenses such as storage or interest incurred by producers after delivery to the warehouse will be included in the price reported to NASS, only if producers retain ownership of cotton after it is delivered to the warehouse.

Different cotton marketing rules and practices currently exist among cotton exchanges and cotton markets, with certain marketing expenses borne by the buyer or by the producer, depending upon the marketing region. The previous definition of the price received by farmers for cotton was not determined at a specific point in the marketing process. The average cotton price received by farmers is not expected to change materially from the price NASS would have obtained using the previous definition.

This proposed method is consistent with NASS's grain price estimating program. Compression and loadout charges, which have historically been paid by the buyer, will not be included in the price of cotton reported to NASS. This procedure is also consistent with spot market prices reported by the Agricultural Marketing Service which do not include compression and loadout charges. Any direct payments by the Government to cotton producers (i.e., deficiency payments and loan deficiency payments (LDP), the so-called "POP" payments) and gains from repaying loans at less than the loan rate will be excluded from the price reported to NASS.

Comments on this proposal should be sent to Robert W. Milton, Chief, Economic Statistics Branch, NASS/USDA, room 5912, South Building, Washington, DC 20250; telephone: (202) 720-3570 within 30 days of this notice.

(7 U.S.C. 2204)

Done in Washington, DC, this 25th day of June 1992.

Donald M. Bay,

Acting Administrator.

[FR Doc. 92-15438 Filed 6-30-92; 8:45 am]

BILLING CODE 3410-20-M

Soil Conservation Service

Wahoo Creek Watershed, NE

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Wahoo Creek Watershed, Saunders County, Nebraska.

FOR FURTHER INFORMATION CONTACT: Ronald E. Moreland, State Conservationist, Soil Conservation Service, 100 Centennial Mall North, Federal Building, room 152, Lincoln, NE 68508-3866, telephone (402) 437-5300.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally-assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Ronald E. Moreland, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns are as follows: Flooding has been the most significant concern in addition to sedimentation and scour, water quality, fish habitat, wildlife, wildlife habitat, air quality, wetlands, cultural resources, windbreaks, woodlands, erosion, deterioration of the resource base, transportation, endangered species, groundwater, economic conditions, land use, and development of water-base recreation. Alternatives under consideration to address these concerns include systems for conservation land treatment, nonstructural measures, and earth dams.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. A meeting will be held at (10 a.m., Thursday, July 16, 1992 in the Lower Platte North Natural Resources District Board Room, Commercial Park Road, Wahoo, Nebraska to determine the scope of the evaluation of the proposed action. Further information on the proposed action, or the scoping meeting may be obtained from Ronald E. Moreland, State Conservationist, 100 Centennial Mall North, Federal Building, room 1652, Lincoln, Nebraska 68508–3866, or telephone (402) 437–5300.

Dated: June 4, 1992.

Ronald E. Moreland,

Acting State Conservationist.

[FR Doc. 92–15407 Filed 6–30–92; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 19–92]

Foreign-Trade Zone 75—Phoenix, AZ; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Phoenix, Arizona, grantee of FTZ 75, requesting authority to expand and relocate its foreign-trade zone in Phoenix, Arizona. The application was submitted pursuant to the provisions of the FTZ Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 22, 1992.

FTZ 75 was approved on March 25, 1982 (Board Order 185, 47 FR 14931, 4/7/82). The general-purpose zone currently involves a site (73 acres) within the Freeport Center industrial park.

The City is now requesting authority to relocate its general-purpose zone to a site (375 acres) within the 550-acre Phoenix Sky Harbor Center at Squaw Peak Freeway and I–10, Phoenix, adjacent to Sky Harbor International Airport. The facility is a mixed-use commercial development owned by the City of Phoenix.

No manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 31, 1992. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 14, 1992).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 230 N. First Avenue, room 3412, Phoenix, Arizona 85025.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: June 24, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92–15416 Filed 6–30–92; 8:45 am]

BILLING CODE 3510–DS–M

[FTZ Docket 36–91, Order No. 584]

Approval for Certain Manufacturing Activity (Flexible Pipe) Foreign-Trade Zone 65, Panama City, FL

Pursuant to its authority under the Foreign-Trade Zones (FTZ) Act of June 18, 1934, as amended (19 U.S.C. 81a–81u) (The Act), the Foreign-Trade Zones Board (the Board) adopts the following Order:

After consideration of the request submitted by the Panama City Port Authority, grantee of Foreign-Trade Zone 65, filed with the Foreign-Trade Zones Board (the Board) on June 14, 1991, on behalf of Wellstream Corporation, for authority to use zone procedures to manufacture flexible pipe within FTZ #65, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations would be satisfied, and that the proposal would be in the public interest if approval were given subject to a restriction requiring that privileged foreign status (19 CFR 146.41) shall be elected on foreign steel mill products upon admission to the general-purpose zone, if the same items are then being produced by a domestic plant, approves the application subject to the foregoing restriction.

This authority is granted subject to the FTZ Act and the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), including section 400.28.

Signed at Washington, DC, this 23rd day of June, 1992, pursuant to Order of the Board.

Alan M. Dunn,

Assistant Secretary of Commerce for Import Administration Chairman, Committee of Alternates Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.

Executive Secretary.

[FR Doc. 92–15417 Filed 6–30–92; 8:45 am]

BILLING CODE 3510–05–M

[Docket 20–92]

Foreign-Trade Zone 119—Minneapolis-St. Paul, MN; Application for Subzone; American Feeds & Livestock Company, Inc., Animal Feed Plant, Howard Lake, MN

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Metropolitan Area Foreign-Trade Zone Commission, grantee of FTZ 119, requesting special-purpose subzone status for export activity at the animal feed manufacturing plant of American Feeds & Livestock Company, Inc., (AFLC), located in Howard Lake, Minnesota. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 23, 1992.

The AFLC plant (8.5 acres/50 employees) is located at 305 13th Avenue in Howard Lake (Wright County), some 40 miles west of Minneapolis. The facility produces milk-based animal feeds by blending dried milk, whey, caseins, soy proteins, animal fats, lecithin, and vegetable oils, some of which are sourced abroad.

The company is requesting the use of zone procedures so that it can use foreign, ex-quota dairy products to produce milk replacer-type animal feed for export. Zone procedures for export manufacturing would also exempt the firm from quota requirements and

Customs duty payments on the foreign dairy products (HTSUS Headings 0401–0405) and other foreign-sourced ingredients, such as casein/caseinate, wheat protein isolate, and coconut oil. Zone procedures would not be used to manufacture products for sale in the domestic market. The application indicates that subzone status would help improve AFLC's international competitiveness.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 31, 1992. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 14, 1992).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 108 Federal Building, 110 S. Fourth Street, Minneapolis, MN 55401

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street and Constitution Avenue, NW., Washington, DC 20230

Dated: June 23, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92–15420 Filed 6–30–92; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–401–601]

Brass Sheet and Strip From Sweden; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On January 23, 1992, the Department of Commerce published the preliminary results of its 1990–91 administrative review of the antidumping duty order on brass sheet and strip from Sweden. The review covers one exporter during the period from March 1, 1990 through February 28, 1991.

The Department gave interested parties the opportunity to comment on the preliminary results. Based on the analysis of the comments received, the final results of this review are unchanged from the preliminary results, which were based on the best information available.

EFFECTIVE DATE: July 1, 1992.

FOR INFORMATION CONTACT: Stephen Jacques, (202) 377–0180, or Linda Pasden, (202) 377–3793, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On January 23, 1992, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on brass sheet and strip from Sweden (57 FR 2705). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by this review are shipments of brass sheet and strip, other than leaded brass and tinned brass sheet and strip, from Sweden. The chemical composition of the products under review is currently defined in the Copper Development Association (C.D.A.) 200 Series or the Unified Numbering System (U.N.S.) C200000 series. Products whose chemical compositions are defined by other C.D.A. or U.N.S. series are not covered by this review. The merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item numbers 7409.21.00 and 7409.29.20. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

This review covers sales and entries of one manufacturer/exporter, Outokumpu Copper Rolled Products AB (OAB), and its related U.S. company, Outokumpu Copper U.S.A. (OCUSA), and the period from March 1, 1990 through February 28, 1991.

Analysis of Comments Received

The Department gave interested parties the opportunity to comment on the preliminary results. At the request of the respondent, a hearing was held on March 9, 1992. Case and rebuttal briefs were submitted by petitioners and respondent.

Interested Party Comments

Comment 1: OAB disagrees with the Department's decision in the preliminary results to apply best information available (BIA) to the U.S. entries during the period of review because the Department found unreported U.S. and home market sales at verification. OAB contends that the Department may only use BIA when: (1) Commerce is unable to verify the accuracy of data submitted by the respondent or (2) a party or any other person refuses or is unable to produce the information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation. OAB claims these statutory criteria for the use of BIA do not exist in this case because OAB has fully cooperated and did not intentionally withhold data from the Department. OAB contends that the Department's rejection of its home mrket sales data and the use of BIA violates precedent and is an abuse of discretion. OAB states its failure to report certain home market sales was inadvertent and argues they submitted the data in question to the Department representatives early in the verification but the Department arbitrarily rejected the data. OAB further contends that the Department must conduct a "thorough investigation" and, whenever possible, base its determination on the respondent's actual sales and cost data (see Oscillating Fans and Ceiling Fans From the People's Republic of China, 56 FR 55271, 55275 (October 25, 1991)). Therefore, the Department's use of BIA in this proceeding was improper.

Petitioners contend that OAB misinterprets the statute and regulations concerning the use of BIA. Petitioners disagree with OAB's contention that the Department may only use BIA when a respondent is uncooperative or intentionally withholds data. Petitioners argue the Department should continue to apply a rate based on BIA in assessing dumping margins against OAB.

Department's Position: We disagree with respondent. Respondent's claim that the Department had no basis for using BIA in this case cannot be supported by the statute, the regulation and Departmental practice. Section 776(c) of the Tariff Act requires the Department to rely upon the best information otherwise available to establish a respondent's dumping margins when, *inter alia*, the agency does not receive timely or complete factual information. Further, the plain language of the implementing regulation similarly provides in relevant part that "[t]the Secretary will use the best

information available whenever the Secretary: (1) Does not receive a complete, accurate, and timely response to the Secretary's request for factual information * * *" 10 CFR 353.37(a) (1991). Also, the Secretary will use best information available "[w]hen a company refused to cooperate with the Department or otherwise significantly impeded these proceedings, we have used as BIA the * * * highest of the rates * * * in the less than fair value investigation (see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany, et al., 56 FR 31705 (July 11, 1991)).

Based on the information obtained at verification in Sweden and in the United States, the Department determined that there were sufficient and compelling reasons to reject OAB's response as inadequate and incomplete. Specifically, the Department concluded that (1) OAB failed to report numerous entries to the United States of subject merchandise during the period of review; (2) the Department could not verify total quantity and value of sales in the home market or to the United States; (3) OAB provided inaccurate and conflicting explanations of its sales to a large U.S. customer; and (4) OAB did not report a significant number of home market sales that could have been used in the foreign market value analysis (see Home Market Verification Report, December 4, 1991, pp. 2–3; U.S. Verification Report, December 18, 1991, pg. 3).

The purpose of verification is to establish the accuracy and completeness of a response, not to permit additional information to be submitted which the Department has not had sufficient time to analyze and on which the other interested parties have not been provided an opportunity to comment. Moreover, OAB repeatedly revised its home market sales data base before verification, and despite these revisions, OAB still had not reported all ot its home market sales (see Letters from Winthrop, Stimson, June 30, 1991, August 30, 1991, September 5, 1991, September 16, 1991, September 25, 1991, September 26, 1991 and Memorandum to Joseph A. Spetrini from Holly Kuga, January 2, 1992).

Respondent's failure to submit the requested data constituted *"noncompliance with an information request"* within the meaning of *Olympic Adhesives, Inc.* v. *United States,* 899 F.2d 1565, 1573 (Fed. Cir. 1990), which noncompliance justifies, indeed, dictates the use of BIA here. Further, contrary to respondent's contention, there is no "intent" component to the Department's use of BIA. That is, despite respondent's claim that it did not intentionally withhold information from the Department, the fact remains that the incomplete and inadequate responses rendered the Department unable to determine accurately the extent to which OAB may have sold its merchandise in the United States at prices less than foreign market value (FMV).

The Department agrees that actual sales and cost data are always preferable, but in this instance we were simply unable to make our determination on the basis of actual data due to OAB's failure to timely, completely, and adequately provide such data. Therefore, the Department's use of BIA was mandated in this case by the governing statute and regulation.

Comment 2: OAB contends that the unreported home market sales from Department 74 were at a different level of trade and constituted an insignificant portion of home market sales. OAB claims that the sales from the "small lot" mill are insignificant in number and therefore irrelevant to the final margin. Consequently, OAB urges the Department to revoke the use of BIA and use respondent's home market sales data for the final results.

Department's Position: We disagree with respondent. OAB's argument that these unreported sales are at a different level of trade is untimely and not substantiated in the record. When the Department discovered these Department 74 sales at verification, OAB never claimed at that time that these sales were at a different level of trade. However, even if OAB had claimed these sales were at a different level of trade, OAB was still obligated to report these sales. OAB stated that the only difference between the products whose sales were reported and the unreported sales is the fact that the unreported sales were produced on the "Small Lot Mill" which handles the production of small quantity strip sales in the home market (see Home Market Verification Report, December 4, 1991, pp. 3).

The Department also disagrees with OAB's contention that the sales from the "small lot" mill are insignificant in number and therefore irrelevant to the final margin. The Department noted that "[t]these unreported sales were produced on OAB's small lot mill and were found to be such or similar merchandise that could have been used in our calculation of FMW" (see Memorandum to Joseph A. Spetrini from Holly Kuga, January 2, 1992, pg. 2). At verification, the Department traced home market invoices for November 1990 to the response and found a significant number of unreported home market sales from the small lot mill. We selected another month of invoices (June 1990) and again found unreported sales (see Home Market Verification Report, December 4, 1991, pg. 3). This gave the Department reasonable grounds to question the validity of the quantity and values as reported in the response. If these small lot mill sales had been reported, these sales could have been matched to U.S. sales in the calculation of dumping margins. These sales, therefore, are clearly not "irrelevant."

In any event, as stated in the Department's position to Comment 1, OAB's failure to report all home market sales was only one of the reasons which led the Department to conclude that it could not rely on the accuracy of OAB's data and must, instead, apply the best information available.

Comment 3: Respondent contends that the Department reached the wrong conclusions after discovering alleged unreported sales during the U.S. verification. OAB claims that the Department engaged in what it characterizes as sheer speculation that the alleged unreported sales discovered at verification are indicative that a large number of U.S. sales were not reported. Furthermore, respondent claims the alleged unreported sales are insignificant in number when compared to total sales for the period. OAB asks the Department to permit respondent to report these sales in a later review and not penalize OAB in the current review.

Department's Position: We disagree with respondent. The Department did not speculate that there were "an infinite number of unreported sales," as respondent claims. Instead, the Department noted only that "[W]e also found numerous unreported U.S. sales * * * [M]ore importantly, we do not have any way of measuring the total extent of the omission of U.S. sales from the response" (see Memorandum to Joseph A. Spetrini from Holly Kuga, January 2, 1992, pg. 2). Because of these omissions, we were unable to verify total quantity and value of U.S. sales. The Department's inability to verify quantity and value of U.S. sales prevented us from calculating accurate margins on these sales. Further, in response to OAB's suggestion that we examine these unreported sales in a future review, these sales if reported, would have been properly examined in this review and not a future review. Therefore, use of BIA for respondent's U.S. sales was mandated.

Comment 4: OAB asserts that it would be arbitrary for the Department to reject OAB's U.S. sales data simply because these sales may have been reported on the basis of the U.S. subsidiary's invoice date as the date of sale. OAB claims that there is precedent in other cases for accepting the invoice date as the date of sale. Respondent claims the Department's questionnaire for this review recognizes that various dates, including the invoice date, may be appropriate for determining which sales must be reported during a review. OAB urges the Department to allow use of the invoice date for this review.

Petitioners argue that OAB failed to comply with the questionnaire and submit all sales data as requested by the Department. They ask the Department to reject respondent's U.S. sales data base for the final results.

Department's Position: We disagree with respondent. The purpose of the review is to establish United States price and FMV for each entry during the period (section 751(a)(2) of the Tariff Act). OAB was specifically requested in the Department's questionnaire to provide "the total quantity and value of such or similar merchandise that you sold to the United States during the period of review, as well as all U.S. entries during the period of review which were pursuant to sales made prior to the period of review." However, OAB only reported those sales that were invoiced by the related subsidiary after importation and not all the sales of the merchandise that entered during the period. OAB claimed, and we confirmed, that these sales to the United States were purchase price transactions. As a result, OAB should have reported all entries of the subject merchandise.

OAB's assertion that U.S. sales should be reported on the basis of invoice date by its U.S. subsidiary is appropriate in an exporter's sales price transaction but not in a purchase price transaction. Furthermore, by invoicing after importation, OCUSA would not have included in their U.S. sales database those sales that entered during the period, and those that may have been invoiced after the period. If those sales had been reported, we would have used them in the calculation of dumping margins.

Comment 5: OAB contends that there were no "misrepresentations concerning sales" to a U.S. customer as was stated in the preliminary results of the review. OAB claims that it inadvertently failed to take into account changes in its relationship with a customer while preparing the questionnaire response. OAB asserts that the supplier/customer relationship concerning consignment sales was subject to adjustment due to the customer's financial problems. OAB claims that any alleged misrepresentations are harmless errors and cannot serve as a basis for rejecting OAB's U.S. sales data.

Department's Position: The Department disagrees that the misrepresentations are harmless errors because OAB's description of its sales is fundamental, as it would have provided the basis for the Department to determine whether the sales constituted purchase price or exporter's sales price transactions. Throughout verification in Sweden, OAB misrepresented the nature of these sales by claiming that certain of the sales were not reported in the response because the customer in question was having financial problems and the merchandise was not shipped to the customer but to an independent warehouse (see Home Market Verification Report, December 4, 1991, pg. 4). Only from documentation provided at the verification in the United States did the Department learn that these sales were subject to a closed-consignment arrangement beginning in 1989 (well before the questionnaire response was prepared), and that the terms of payment for some if not all of these sales changed after importation (see U.S. Verification Report, December 18, 1991, pp. 2–3). Under the closed-consignment arrangement, items are invoiced at the time they are withdrawn from warehouse, or at the end of the agreed period, whichever comes first. Based on OAB's description of these sales in the original questionnaire response, we intended to treat them as purchase price sales. As stated above, only after the Department reviewed certain documents provided at the U.S. verification and after we requested clarification of those documents were we alerted to the fact that the terms of payment may have changed for some, if not all, of the sales to the customer in question. Based on this new information, the Department now believes these sales may be more appropriately classified as exporter's sale price transactions as terms of sale were established after importation (see Memorandum to Joseph A. Spetrini from Holly Kuga, January 2, 1992, pg. 2). A change in the classification of these sales would have altered possible adjustments to the U.S. price and the FMVs used in calculating margins. Also, OCUSA did not report in the response certain storage expenses for these sales which were invoiced after the period of review (see U.S. Verification Report, December 18, 1991, pp. 2, 4–5). Due to the lack of information and the variations in explanations, the Department could not calculate a reliable margin and as a result, used BIA.

Comment 6: OAB alleges that the Department's verification procedures at the U.S. sales verification were seriously flawed. OAB claims that the verification was scheduled by the Department to last three days, but the Department representatives left the verification site at around noon of the second day. OAB contends that problems with the verification could have been resolved if the Department had remained at verification for the scheduled time and requested additional documents. OAB claims that the Department gave no indication at verification that the U.S. sales data base would be rejected. OAB urges the Department to reinstate respondent's data and to complete the verification.

Petitioners contend that the record provides a more than reasonable explanation of the U.S. verification by Department staff. Petitioners argue that when the Department determined, after spending one and a half days at verification, that it was not going to be able to verify the completeness of the U.S. sales data reported, and knew from its completed verification in Sweden that the home market sales data were also incomplete, the Department staff were justified in not prolonging the verification. Petitioners state that it was not incumbent upon the Department staff to inform OAB that it would reject its U.S. sales data altogether. Petitioners contend that the Department staff could not have informed OAB at that time, because such an ultimate decision would have to be approved by decision-makers at the Department.

Department's Position: We agree with petitioners. The Department's objective in the U.S. verification was to verify the accuracy and completeness of the response. We sent OAB a letter dated November 21, 1991, detailing the types of records and expenses the Department would examine during verification. The Department fulfilled its responsibility by thoroughly checking all the items listed in that letter.

The Department scheduled the U.S. verification from the morning of Monday, November 25 until noon on Wednesday, November 27, 1991. On Tuesday afternoon, November 26, the Department representatives and counsel for respondent agreed that it would not be necessary to extend the verification into the next morning because the Department had examined everything specified in the Department's pre-verification letter of November 21, 1991. At no time during verification did

counsel for respondent or a company representative indicate to the Department that there was additional information that could have been provided or that they wanted the verification to be prolonged for any reason (see Memo to File, March 13, 1992).

We did not inform OAB at verification that the Department would reject respondent's sales data. The Department staff knew during verification that OAB's U.S. sales data was inadequate and incomplete. However, only the decision-makers at the Department, after carefully reviewing the results of verification, could make the decision to reject some or all of OAB's response.

Comment 7: OAB contends that one reason the Department concluded that it was unable to verify the completeness of home market and U.S. sales was because respondent's in-house computer systems did not maintain and report data in a way desired by the Department. OAB asserts that it should not be penalized because the respondent did not manipulate its in-house data bases in anticipation of verification.

Department's Position: The Department disagrees with OAB. Respondent itself notes that it would "be a relatively simple matter for any creative respondent to establish an in-house computer program that precisely tracks sales lists prepared by a particular respondent for home market and U.S. reporting purposes" (see OAB's Case Brief, February 24, 1991, pg. 30).

At verification, the Department officials recognized that OAB did not maintain the type of records which would allow for the verification of the total quantity and value of the subject merchandise. However, despite the inadequacies of OAB's records, the Department worked with the data in the form presented by respondent. As a result, the Department traced home market invoices for November 1990 to the response and found a significant number of unreported home market sales. We selected another month of invoices (June 1990) and again found unreported sales. A similar trace was done for the sales to the United States and again we found unreported sales. Consequently, the Department had reasonable grounds to question the validity of the quantity and values as reported in the response. The Department noted in its report of the home market verification that OAB's ROFS computer system "is not updated when orders are changed and * * * [B]ecause the ROFS (computer) system is not accurate and complete, we were unable to verify total quantity and value of sales in the home market" (see Home Market Verification Report, pg. 3). In the U.S. verification, we found that "[W]e could not determine the total imports or sales for the period because OCUSA claimed that it was unable to modify the computer program * * *" (see U.S. Verification Report, pg. 3).

Thus, the issue is not whether the Department sought to require OAB to maintain its data in any prescribed fashion. Rather, it is whether there were means by which the Department could reasonably verify the accuracy and completeness of the information which OAB had certified as being accurate and complete. Because spot-tracing of invoices indicated that not all sales had been reported and this indication could not otherwise be refuted by OAB's records, the Department was left with no alternative but to resort to BIA in this case.

Comment 8: Petitioners contend that the Department should use petitioners' constructed value model as the best information rate, given OAB's data revisions and failure to submit complete and verifiable sales data.

Petitioners argue that if the Department does not use their constructed value model for calculation of BIA, then the Department should maintain the BIA rate established in the preliminary results of review. Petitioners allege OAB's data is so incomplete the Department should not use any of it for BIA. They note that the antidumping duty rates from the first three administrative reviews were not verified by the Department and, given the numerous errors and omissions found at verification, it should be seriously questioned whether the data from the previous reviews was accurate. Given this, petitioners claim the verified data from the original investigation provides the only reasonable BIA rate, should the Department not use petitioners' constructed value model.

OAB argues that if the Department decides to reject OAB's data, it should use as BIA OAB's margin from the most recent review. OAB notes that the investigation rate is based upon sales made by respondents approximately six years ago and, therefore, the use of the investigation BIA rate would be punitive. OAB claims that a BIA rate that is punitive is only appropriate when the respondent has not cooperated with the Department, which is not the case in this review. Instead, respondent contends the only reasonable BIA rate would be the rate from OAB's last administrative review.

Department's Position: We disagree with respondent. Because of our inability to verify total quantity and value of sales in either the U.S. market or the home market, OAB's failure to report all home market and U.S. sales, as well as the misrepresentations concerning certain U.S. sales, the Department cannot calculate accurate antidumping duties from information on the record. Therefore, the Department has no choice but to use BIA (see Department's Position, Comment 1).

The acronym "BIA" generally refers to the information the Department must use in lieu of a respondent's data to establish dumping margins when a respondent does not provide the Department with timely, complete or accurate information (section 776(b) of the Tariff Act; § 353.37(a) of the Department's regulations). The primary purpose of the BIA rule is to induce respondents to provide the Department with timely, complete and accurate factual information, so that the agency can achieve the fundamental purpose of the Tariff Act, namely, "determining current [dumping] margins as accurately as possible" (*Rhone Poulenc* v. *United States* 899 F.2d 1185, 1191 (Fed. Cir. 1990)). A secondary purpose is to ensure that the antidumping duties assessed are not less than the actual amounts might have been, had we received full and accurate information.

To induce a noncomplying respondent to provide the necessary response to a future information request, the Department must select an appropriate BIA rate to encourage future compliance. This selection of the appropriate BIA rate is done on a case-by-case basis (see Final Results of Antidumping Duty Administrative Review, Steel Jacks from Canada, 52 FR 32957 (Sept. 1, 1987)).

The Federal Circuit's decision in Rhone Poulenc indicates that, in accordance with the Tariff Act, the Department may draw a reasonable adverse presumption against a noncomplying respondent to achieve the purpose of the BIA rule (Rhone Poulenc, 899 F.2d at 1190–91). In drawing this adverse presumption or inference, the Department typically must select as BIA a dumping margin that is unfavorable to the noncomplying respondent. *Id.* Further, the margin selected by the Department may be the "highest prior margin," which may include the less-than-fair-value margin calculated for the respondent in the original investigation. *Id.*

Thus, the Rhone Poulenc court authorizes the Department to presume that the reason a particular respondent failed to submit complete, accurate, or timely data to the agency is that the withheld information would have

demonstrated that current dumping margins are higher than those already on the administrative record. Otherwise, the "[respondent], knowing the [best information] rule, would have produced *current* information showing the [dumping] margin to be less." *Id.* (emphasis in original).

A corollary to the reasonable adverse inference principle is that the Department's selection of BIA cannot reward a noncomplying respondent. (*Id.* at 1188 (quoting 52 FR at 33856)). Thus, the Department's selection of BIA is usually adverse to the noncomplying respondent, and it may be the highest prior margin ever calculated for that respondent in the entire administrative proceeding.

Finally, the Tariff Act does not require the Department to "equate 'best information' with 'most recent information' " (*id.* at 1190). Thus, respondent's argument that the 9.49 percent margin from the less-than-fair-value investigation is based upon information not recent enough is without merit.

Accordingly, the Department determined that using OAB's rate of 9.49 percent from the original investigation is more appropriate than petitioner's cost of production data as BIA because the original investigation rate is based on OAB's own experience, it was verified, and its use is consistent with the Department's practice.

Comment 9: OAB asserts that petitioners' case brief contained data concerning petitioners' constructed value model that was not previously submitted. Therefore, the Department should reject petitioners' case brief on the basis that it contains untimely and uncertified information.

Department's Position: We disagree with respondent. The Department has determined that petitioners' constructed value model is not new information that is untimely submitted. The data in question was calculated from information which was already submitted on the record. Petitioners merely manipulated previously submitted and certified data for inclusion in their case brief. Therefore, the Department will allow petitioners' brief to remain in the record but, as explained in the Department's Position to Comment 8, we have not relied on this information for purposes of the final results.

Final Results of Review

As a result of our analysis of the comments received, we determine that the following margin exists for OAB for the period March 1, 1990 through February 28, 1991:

Manufacturer/exporter	Percent margin
Outokumpu Copper Rolled Products AB	9.49

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all entries of the subject merchandise covered by this review. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will remain in effect until publication of the final results of the next administrative review for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided by section 751(a)(1) of the Tariff Act:

(1) The cash deposit rate for OAB will be 9.49 percent;

(2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered by this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) The cash deposit rate for all other manufacturers or exporters will be 6.89 percent. This rate represents the highest rate for any firm with shipments in the most recent administrative review, other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Commerce Department's regulations (19 CFR 353.22).

Dated: June 19, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-15468 Filed 6-30-92; 8:45 am]

BILLING CODE 3510-DS-M

Antidumping and Countervailing Duty Orders: Protests

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of opportunity to notify U.S. Customs Service of interest in proceeding with unresolved protests involving antidumping and countervailing duty issues.

SUMMARY: The U.S. Customs Service (USCS) will be requesting parties that filed protests prior to January 1, 1992, involving antidumping and countervailing duty issues and have not yet received a decision or other communication from USCS, to notify USCS that the protestant still has an interest in proceeding with the protest.

DATES: Date for protesters to notify USCS will be indicated in USCS **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: Jeffrey Laxague, Office of Trade Operations, United States Customs Service, (202) 566-8652.

SUPPLEMENTAL INFORMATION: The International Trade Administration (ITA), in conjunction with the USCS, is completing review of all unresolved protests filed under section 514 and 520 (c) of the Tariff Act of 1930, as amended (19 U.S.C. 1514 and 1520 (c)), which involve antidumping and countervailing duty (AD/CVD) issues for which USCS has requested our recommendation. Please refer to the forthcoming **Federal Register** notice under Department of the Treasury/USCS for information on form and time limitations for notification.

We emphasize that this notice applies only to protests filed prior to January 1, 1992 which involve antidumping or countervailing duty issues.

Dated: June 17, 1992.

Lisa B. Koteen,

Acting Chief Counsel for Import Administration.

Dated: June 24, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-15418 Filed 6-30-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-806]

Certain Small Business Telephone Systems and Subassemblies Thereof From Taiwan; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration/ International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On November 13, 1991, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain small business telephone systems and subassemblies thereof from Taiwan. The review covers seven manufacturers/exporters of this merchandise to the United States, Sinoca Enterprises Co., Ltd. (Sinoca), Bitronic Telecoms Co., Ltd. (Bitronic), Auto Telecom Co., Ltd. (Auto Telecom), Taiwan International Standard Electronics, Ltd. (TAISEL), Taiwan Telecommunications Industry Co., Ltd. (Taiwan Telecom), Tecom Co., Ltd. (Tecom), and Magtron Co. (Magtron), and the period August 3, 1989, through November 30, 1990.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of comments received, the final results differ from the preliminary results of review. The margins are set forth under the Final Results of Review section.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Tom Futtner or Steven Presing, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-3814/4106.

SUPPLEMENTARY INFORMATION:

Background

On November 13, 1991, the Department of Commerce (the Department) published in the Federal Register (56 FR 57613) the preliminary results of its administrative review of the antidumping duty order on certain small business telephone systems (SBTS) and subassemblies thereof from Taiwan (54 FR 42543, October 17, 1989). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act) and 19 CFR 353.22 (1991).

Scope of the Review

Imports covered by the review are shipments of certain small business telephone systems (SBTS) and subassemblies thereof, currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 8517.30.2000, 8517.30.2500, 8517.30.3000, 8517.10.0020, 8517.10.0040, 8517.10.0050, 8517.10.0070, 8517.10.0080, 8517.90.1000, 8517.90.1500, 8517.90.3000, 8518.30.1000, 8504.40.0004, 8504.40.0008, 8504.40.0010, 8517.81.0010, 8517.81.0020, 8517.90.4000, and 8504.40.0015. The HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

Certain SBTS and subassemblies thereof are telephone systems, whether complete or incomplete, assembled or unassembled, with intercom or internal calling capability and total non-blocking port capacities of between two and 256 ports, and discrete subassemblies designed for use in such systems. A subassembly is "designed" for use in a small business telephone system if it functions to its full capability only when operated as part of a small business telephone system. These subassemblies are defined as follows:

(1) Telephone sets and consoles, consisting of proprietary, corded telephone sets or consoles. A console has the ability to perform certain functions including: Answer all lines in the system; monitor the status of other phone sets; and transfer calls. The term "telephone sets and consoles" is defined to include any combination of two or more of the following items, when imported or shipped in the same container, with or without additional apparatus: Housing; hand set; cord (line or hand set); power supply; telephone set circuit cards; console circuit cards.

(2) Control and switching equipment, whether denominated as a key service unit, control unit, or cabinet/switch. "Control and switching equipment" is defined to include the units described in the preceding sentence which consist of one or more circuit cards or modules (including backplane circuit cards) and one or more of the following items, when imported or shipped in the same container as the circuit cards or modules, with or without additional apparatus: Connectors to accept circuit cards or modules; and building wiring.

(3) Circuit cards and modules, including power supplies. These may be incorporated into control and switching equipment or telephone sets and consoles, or they may be imported or shipped separately. A power supply converts or divides input power of not more than 2,400 watts into output power of not more than 1,800 watts supplying DC power of approximately 5 volts, 24 volts, and 48 volts, as well as 90 volt AC ringing capability.

The following merchandise has been excluded from the scope of this review: (1) Nonproprietary industry-standard ("tip/ring") telephone sets and other subassemblies that are not specifically designed for use in a covered system, even though a system may be adapted to use such nonproprietary equipment to provide some system functions; (2) telephone answering machines or facsimile machines integrated with telephone sets; and (3) adjunct software used on external data processing equipment.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results as provided by § 353.22(c) of the Commerce Regulations. We received comments from four of the respondents, Bitronic, Tecom, Sinoca, and Taisel, and rebuttal comments from the petitioner, American Telephone & Telegraph (AT&T).

We have corrected any clerical errors noted by the respondents and have addressed them specifically in this notice.

Bitronic

Comment 1: Bitronic argues that the imposition of punitive best information available (BIA) (the highest dumping margin found) for sales where the difference-in-merchandise adjustment (DIFMER) exceeded 20 percent is contrary to law and is unfair. Since the Department's questionnaire did not request companies to provide constructed value (CV) information when DIFMERs exceeded 20 percent of variable cost of manufacturing (VCOM), nor did the questionnaire indicate any concern if DIFMERs exceeded 20 percent, Bitronic claims it waited for a request for CV information.

In addition, Bitronic claims that the Department used DIFMERs exceeding 20 percent in the original investigation, as well as several other recent cases, and lack of any discussion of DIFMERs exceeding 20 percent did not seem unusual.

Department's Position: We agree with Bitronic that the imposition of an adverse BIA in this instance is inappropriate. For these final results, we requested that Bitronic provide CV information and have used the submitted figures, adjusted for actual profit, in those instances when DIFMERs exceeded the 20 percent guideline.

In accordance with section 773(a)(4)(C) of the Tariff Act as well as 19 CFR 353.57, we ordinarily will make a reasonable allowance for differences in the physical characteristics of the

merchandise. When adjustments for DIFMER prove to be substantial (normally, greater than 20 percent of VCOM), we normally will not use these home market sales as the basis for foreign market value (FMV).

In contrast, the DIFMERs reported by Bitronic were, in most cases, substantially greater than 20 percent of the VCOM, with the differences reaching as high as several thousand percentage points. It is not our practice to consider merchandise with DIFMERs of this magnitude as similar to U.S. merchandise. Therefore, we did not consider home market merchandise with DIFMERs exceeding 20 percent of VCOM as constituting a reasonable basis for comparison to U.S. sales.

As Bitronic claims, we did deviate from the 20 percent guideline in the original investigation. During that investigation we made an exception and allowed a DIFMER adjustment of 23 percent. This decision was based on the fact that the DIFMER marginally increased from below 20 percent of VCOM as a direct result of the Department's altering the respondent's reported costs to reflect the Department's findings at verification. Accordingly, in the investigation we determined that the home market merchandise was still reasonable as a comparison to the U.S. merchandise within the meaning of section 771(16) of the Tariff Act.

When using the reported CVs, we made an adjustment to reflect Bitronic's actual profit. Bitronic only reported the statutory minimum of 8 percent for profit and did not respond completely to the Department's questionnaire. The questionnaire clearly requests that the company include in its submission, if it is reporting the statutory minimum for profit, a calculation showing how Bitronic determined that its profit was less than 8 percent. However, Bitronic simply stated in its questionnaire response that it reported the statutory profit of 8 percent of the cost of production. Bitronic did not provide any calculation showing how it determined its profit was less than 8 percent, as the questionnaire requires. Therefore, as BIA we used the company's financial statements to determine actual profit. Because the financial statements cover more than SBTS, we used an allocation method for allocating company-wide profit to SBTS similar to that used by the company to allocate selling expenses to SBTS. The actual profit exceeded the statutory minimum.

Comment 2: Bitronic claims that a level-of-trade (LOT) adjustment should be made where U.S. dealer prices are compared to Taiwan end-user prices.

Department's Position: We disagree with Bitronic and have not made a LOT adjustment. We made comparisons for both exporter's sales price (ESP) and purchase price (PP) sales at the same level of trade (*i.e.*, dealer to dealer), in accordance with 19 CFR 353.58. When comparisons were not available at the same level of trade, we compared Bitronic's U.S. sales to its home market sales at the next level-of-trade without making a level of trade adjustment.

Since the preliminary results, we have examined the level of trade (LOT) issue further and found there are insufficient data to support a LOT adjustment. Bitronic's contention that its price comparability studies justify a LOT adjustment fails to address whether differences in levels of trade identified in those studies are due to the difference in level of trade, or whether there are other factors affecting the difference in price.

Comment 3: Bitronic claims that U.S. packing costs were overstated because they were not converted to U.S. dollars prior to their addition to FMV.

Department's Position: We agree with Bitronic that the reported packing costs for the PP and ESP transactions were not converted to U.S. dollars prior to being added to FMV. We made the correction in calculating the final margins and converted the appropriate variables to U.S. dollars before adding them to FMV.

Comment 4: Bitronic notes that an adjustment for the correct Taiwan inland freight was not subtracted from the Taiwan price for PP sales.

Department's Position: We disagree with Bitronic. We did subtract the proper inland freight expense reported by Bitronic. The inland freight variable (INLFRTH1) on the computer printout matches the inland freight variable (INLFRTH) reported by Bitronic.

Comment 5: Bitronic contends that for its ESP sales, value-added tax (VAT) should be added to both FMV and U.S. price.

Department's Position: We agree with Bitronic and have made the appropriate changes.

Comment 6: Bitronic states that for its PP sales, VAT should be calculated based on an FOB Taiwan price, not on an FOB Taiwan price reduced by an imputed credit cost.

Department's Position: We agree with Bitronic that VAT should be calculated based on an FOB Taiwan price which includes imputed credit; however, contrary to Bitronic's assertion, the imputed credit was not subtracted from the tax base when calculating VAT for the final margin calculations. The VAT was calculated in accordance with section 772(d)(1)(C) of the Tariff Act. The Tariff Act requires an addition of taxes collected on home market sales, which are not collected or are refunded on the exported merchandise, to the United States price. Bitronic reported home market sales which did not include the VAT. When the VAT is not included in home market price, we must add a calculated tax to both the FMV and the U.S. price. To do this, we multiplied the U.S. tax base by the home market tax rate and added the result to the U.S. price. Since the VAT was not included in the home market price, we made an adjustment for differences in circumstances of sale by adding to the FMV the same VAT that would have been paid on the merchandise sold to the United States. The VAT was calculated using a tax base, inclusive of imputed credit, that was identical for both markets and included the same amount of expenses.

Comment 7: Bitronic contends that since, as a matter of practice, the Department normally excludes from its dumping calculations those dumping margins which are so aberrant as to indicate error in the numbers, it should do so here.

Department's Position: We disagree with Bitronic. We do review our calculations for computing and clerical errors. When errors in dumping margins are detected, we will correct the errors or exclude the dumping margins from our calculations. If no error exists, we do not normally exclude dumping margins from our calculations.

Tecom

Comment 1: Tecom contends that the imposition of an adverse BIA (the highest dumping margin found) for sales where the DIFMER exceeded 20 percent in contrary to law and is unfair. Tecom claims it waited for the Department to request CV information. Tecom did not believe that it was necessary to provide CV information when DIFMERs exceeded 20 percent since the questionnaire did not indicate that it was necessary. In addition, Tecom claims that the Department used DIFMERs exceeding 20 percent in the original investigation, as well as several other recent cases, and that the lack of discussion of DIFMERs exceeding 20 percent in the most recent questionnaire did not seem unusual.

Department's Position: We agree with Tecom that the imposition of an adverse BIA in this instance is inappropriate. For the final results we requested that Tecom provide CV information and have used the submitted figures, adjusted for profit, in our final analysis

when DIFMERs exceeded the 20 percent guideline.

When using the reported CVs, we made an adjustment to reflect Tecom's actual profit. Tecom only reported the statutory minimum of 8 percent for profit and did not respond completely to the Department's questionnaire. The questionnaire clearly requests that the company include in its submission, if it is reporting the statutory minimum for profit, a calculation showing how Tecom determined that its profit was less than 8 percent. Tecom states in its questionnaire response that within the time available, it was unable to calculate the actual profit, and it believes it to be well below the statutory 8 percent. Tecom did request one extension and was granted a 7-day extension. Tecom did not request any additional time for determining profit. Tecom simply reported the statutory profit of 8 percent of the cost of production. Tecom did not, however, provide any calculation showing how it determined its profit was less than 8 percent as the questionnaire requires. Therefore, as BIA we used the company's financial statements to determine actual profit. Because the financial statements cover more than SBTS, we used an allocation method of allocating company-wide profit to SBTS similar to that used by the company for allocating selling expenses to SBTS. The actual profit exceeded the statutory minimum.

For further explanation, see our response to Bitronic's *Comment 1.*

Comment 2: Tecom claims a level-of-trade adjustment because Tecom sells to OEMs in the United States and to dealers/distributors in Taiwan. As evidence of the differences in costs between selling to dealers/distributors and selling to OEMs, Tecom presents the cost experience of another Taiwan SBTS producer, Tecom's cost experience with cordless telephones, and differences in technical service expenses, warranty expenses, bad debt and warehousing costs associated with regional sales offices, which are necessary for dealers/distributors, but not for OEMs.

Department's Position: Since the preliminary results, we have examined the LOT issue further and find that Tecom has not presented evidence that would justify a LOT adjustment.

As was held in *American Permac, Inc.* v. *U.S., 703 F. Supp. 97, 101 (Ct. Int'l Trade 1988),* the Department is not required to use respondent's estimations of the adjustments, but can use the respondent's estimations to arrive at its own estimates. Application of § 353.58 of the Department's regulations, which provides for a level of trade adjustment, in governed by § 353.54. This provision of the regulations provides in part that: "The person who alleges entitlement to any adjustment pursuant §§ 353.55 through 353.58, must establish it to the satisfaction of the Secretary."

Tecom proposed that the Department make a level of trade adjustment by eliminating those expenses which Tecom would not have incurred had it sold to OEMs in the home market. We do not disagree that certain of Tecom's sales to the United States were made at a different level of trade than the home market sales used for comparison purposes. However, in order for Tecom to demonstrate eligibility for a level of trade adjustment, Tecom must show that, where all other factors are equal, home market sales at different levels of trade incur different costs. This would establish that differences between U.S. and home market sales are due to level of trade differences, not other differences in conditions present in two distinct geographical markets. The expenses that Tecom argues are incurred in selling to dealers/distributors that should be used for the level of trade adjustment are technical service expenses, warranty expenses, bad debt, and warehousing. Furthermore, Tecom claims it would incur lower selling expenses (*e.g.,* reduction in staffing, elimination of regional offices) if it sold to OEMs rather than dealers/distributors. However, in making these claims, Tecom has not adequately demonstrated the expenses it would incur in selling to OEMs. Therefore, any adjustment to price would be arbitrary.

Tecom referred to other companies under review, Taisel and Sinoca, to show the costs associated with selling at both levels of trade in the home market. Tecom must establish that different costs were incurred in selling at two levels of trade by providing or identifying in the public record the expenses of other companies that Tecom believed approximate its own, to explain why it reached this conclusion, and to show how those expenses could be applied to Tecom's experience. The information provided by Taisel, however, was only a statement offering observations of selling expenses it incurred when it sold SBTS to OEMs in Taiwan. Taisel did not provide any data to support Tecom's conclusion that a LOT adjustment is warranted. Sinoca also did not provide information to support Tecom's conclusion that a LOT adjustment is warranted, since it did not provide any data on actual experience selling SBTS to OEMs in Taiwan.

Tecom also referred to its cordless telephone business to show its experience with another product sold in the home market. In order to qualify accurately the LOT adjustment, the data should be based on merchandise that is of the same general nature as the merchandise under review. There must also be some demonstration that the marketing and distribution channels for such a product are similar enough to be used to approximate the experience of the investigated merchandise. Finally, the company must explain how the experience can be used to qualify the level of trade adjustment. Tecom, however, has not adequately demonstrated that cordless phones are of the same general nature as SBTS. Therefore, Tecom has not provided sufficient evidence for the Department to make a LOT adjustment.

Tecom also points to its experience in the Singapore and Hong Kong markets as an indication of the differences in cost associated with selling to OEMs rather than dealers/distributors in Taiwan. Tecom argues that "Hong Kong" and Singapore basically have the same type of customers, products, and distribution network as Taiwan." A level of trade adjustment, however, must be based on home market experience. We cannot simply assume that experience in the Hong Kong and Singapore markets will be similar to that of the home market.

Based on the foregoing, Tecom has not provided sufficient evidence for the Department to make a LOT adjustment.

Comment 3: Tecom argues that supplemental payments made by one of its OEMs should be added to the U.S. price, not subtracted. Tecom contends that it reimburses a U.S. contractor for the cost associated with certain warranty repair/technical service work on Tecom SBTS. Such costs include the salaries of technical manager, two technicians, and a secretary. According to Tecom, its OEM then reimburses Tecom for these payments.

Department's Position: We added to the U.S. price the supplemental payments from the OEM to Tecom. We have allowed this adjustment because Tecom demonstrated that its sales to a particular OEM are tied to supplemental payments made on behalf of that OEM. The supplemental payments were associated with specific OEM sales trasactions.

Comment 4: Tecom contends that warranty expenses should be treated as direct selling expenses. It notes that these costs are not incurred until after the sale of SBTS and that warranty services were rendered at the request of

Tecom's customers. Tecom argues that it satisfies the same conditions for warranty costs as it met for the technical services, which the Department treated as a direct selling expense in the preliminary determination. Specifically, Tecom states that the Department allowed the portion of expenses associated with resolving problems of end-users who buy Tecom SBTS from Tecom's dealers/distributors as a direct selling expense.

Department's Position: We disagree with Tecom. We did not treat the entire pool of Tecom's technical service expenses as direct expenses. We did allow a portion of Tecom's technical service expenses (end-user problem solving) as a direct deduction from U.S. price because these expenses were variable.

Generally, it is the Department's practice in PP calculations to allow adjustments for variable warranty and variable technical service expenses. Contrary to Tecom's assertion that its home market warranty expenses should be treated as direct selling expenses, there is no evidence on the record to suggest that its warranty expenses are variable. Rather, Tecom would still incur costs for salaries associated with its home market warranty personnel even if Tecom had no sales within a certain period of time. Accordingly, we consider Tecom's home market warranty expenses to be fixed and thus to be indirect selling expenses.

Comment 5: Tecom claims it provided an itemized breakdown of Taiwan warranty/technical service expenses in Attachment 11 in its June 10, 1991, response, and that the Department should allow a percentage of those expenses as an adjustment to FMV. Tecom contends that the Department should allow a deduction for at least some of its home market warranty/technical service expenses.

Department's Position: We disagree with Tecom. Attachment 11 of its June 10, 1991, response is an itemization of selling expenses as requested by the Department, not warranty/technical service expenses. We have not allowed a home market warranty expense adjustment since Tecom still has not adequately responded to our request for an itemization of variable and fixed warranty expenses. See our position in response to *Comment 4* for further explanation.

Comment 6: Tecom contends that U.S. and Taiwan warranty costs should be treated consistently. Tecom explains that the Department treated all U.S. warranty costs as direct selling expenses and fully deducted them from U.S. price. This was done for both salary and material costs, which were provided separately in Tecom's submission. Tecom argues that it only incurs warranty expenses pursuant to sales and, therefore, those expenses should be treated as direct in the home market.

Department's Position: We disagree with Tecom's assertion that our treatment of U.S. and Taiwan warranty costs was inconsistent. Generally, it is the Department's practice in PP calculations to allow adjustments for variable warranty and variable technical service expenses.

As mentioned in our response to *Comment 5*, Tecom did not provide the requested variable and fixed home market warranty expense breakdown as it did for the U.S. market. Accordingly, we have classified Tecom's home market warranty expenses as indirect selling expenses (fixed) and have not used them in our PP calculations.

Comment 7: Tecom argues that under *AOC Int'l* v. *United States*, 721 F. Supp. 314 (Ct. Int'l Trade 1989), the Department's position that expenses are fixed if those costs are incurred whether or not service is provided is contrary to law. Tecom also argues that this position is contrary to Department precedent.

Department's Position: We disagree with Tecom. Under our long established policy, fixed costs are those that are incurred regardless of whether a particular sale is made; they, therefore, do not bear a direct relationship to the sales under consideration, and do not qualify as directly related selling expenses. Moreover, we see no reason to overturn this policy since the remand in *AOC* is not final, and may yet be reversed. See *Comment 20* in Color Television Receivers From the Republic of Korea; Final Results of Antidumping Duty Administrative Review (56 FR 12701, 12706, March 27, 1991).

Comment 8: Tecom states that warehouse costs should be subtracted from home market price because warehouse costs on sales of finished SBTS in the Taiwan market are directly related to home market sales.

Department's Position: We disagree with Tecom. Warehousing expenses are typically indirect selling expenses and Tecom has not demonstrated that its warehousing expenses can be tied directly to sales.

Comment 9: Tecom believes that the Department should use the final corrected computer tape.

Department's Position: Tecom submitted an unsolicited computer tape and narrative on July 29, 1991. Since the unsolicited tape was unreadable, we used Tecom's June 10, 1991, tape submission.

Comment 10: Tecom argues that free gifts provided with sales should be subtracted from the sale price. Tecom states that the cost of free gifts is a directly-related selling expense. Tecom argues that in its initial computer tape the variable appeared immediately after the sale to which it applied, as a separate row of data, and that in the final computer tape (submitted July 29, 1991) it was provided as a separate column of data.

Department's Position: We disagree with Tecom's position. To date, it is impossible to determine whether or not the "free gifts" variable appears as a separate row on Tecom's April 15 and June 10 sales submissions. These submissions are ambiguous and the narratives provided did not refer to free gifts or even indicate that free gifts were reported.

In attachment 5 of Tecom's unsolicited July 29, 1991, submission there is a brief explanation that Tecom provides a free gift with some sales. As stated above, we cannot determine whether or not the variable appears on Tecom's earlier sales submissions. Due to the lack of an adequate narrative concerning free gifts, and the fact that the July 29, 1991, tape was unreadable, we did not make an adjustment for this variable.

Comment 11: Tecom argues that U.S. imputed credit costs should not be both subtracted from U.S. price and added to FMV.

Department's Position: We agree with Tecom and in these final results we have not subtracted the imputed credit costs from the U.S. price because these sales are PP transactions.

Comment 12: Tecom argues that VAT was added twice to FMV and it should only be added once.

Department's Position: We agree with Tecom and have made the appropriate corrections.

Comment 13: Tecom states that as a matter of practice the Department normally excludes from its dumping calculations these dumping margins which are so aberrant as to indicate error in the numbers.

Department's Position: We disagree with Tecom. *See* our response to Bitronic's *Comment 8*.

Comment 14: Tecom states that it incurred bad debt on Taiwan SBTS sales and that bad debt is a direct selling expense.

Department's Position: This is the first time that Tecom has requested that an adjustment be made for its bad debt. Tecom argues that under *AOC*, bad debt claims are direct expenses. The Department has a long-standing policy of treating bad debt as an indirect

expense. The remand order in *AOC* is not a final decision, is not ripe for appeal, and may yet be reversed. Therefore, we continue to treat bad debt as an indirect selling expense. See *Color Television Receivers From the Republic of Korea; Final Results of Antidumping Duty Administrative Review* (55 FR 26225, 26232, June 27, 1990).

In addition, we have made no adjustment for bad debt as an indirect selling expense because Tecom's U.S. sales are all PP sales.

Sinoca

Comment 1: Sinoca states that the Department's computer program selected the incorrect dates for calculating the imputed credit for U.S. sales. Sinoca maintains the Department should use the number of days between the date of shipment and the payment date.

Department's Position: We agree that the U.S. imputed credit should be calculated based on the number of days between the date of shipment and the payment date. We have made this correction for the final margin calculations.

Comment 2: Sinoca argues that in comparing U.S. price to CV, the Department should match the CV period of production to the shipping date rather than the U.S. date of sale.

Department's Position: We disagree with Sinoca. In accordance with 19 CFR 353.50(b), we calculated CV using the most recent CV data available preceding the U.S. date of sale. Because Sinoca's sales are all PP, the U.S. date of sale precedes exportation. Therefore, the calculated CV also precedes the date of exportation.

Comment 3: Sinoca claims that in its less-than-fair-value (LTFV) investigation the Department did not include circumstance-of-sale (COS) adjustments to the FMV when CV was used. Sinoca asserts that the Department should subtract the company's direct selling expenses from FMV.

Department's Position: We agree that we should make COS adjustments to Sinoca's CV. When comparing PP to FMV, we make COS adjustments by deducting the directly-related expenses in the home market from the home market prices and adding those expenses incurred on sales to the United States to the weighted-average FMV. Similarly, when comparing PP to CV, we make COS adjustments by deducting the directly-related expenses in the home market from the CV and adding those expenses incurred on sales to the United States to the CV. In our final calculations we subtracted the home market direct selling expenses from CV and added U.S. direct selling expenses.

Comment 4: Sinoca claims that the Department's calculations should be based upon data in its July 29, 1991, submission, claiming that the Department did not use the reported figures and referring to several purchase orders (purchase orders 1240 and 1321).

Department's Position: We do not agree with Sinoca's assertion. We did review and incorporate Sinoca's July 29, 1991, submission in calculating the margins. To arrive at the reported figures, we followed the same approach explained in Sinoca's submissions. To arrive at the final price reported, we took the reported purchase order price and added the cost of an additional part used on the SBTS, which was obtained and provided by Sinoca. The result matches the reported figures in Sinoca's July 29, 1991, submission.

Taisel

Comment 1: Taisel argues that the Department should not assign a punitive BIA rate to sales by a cooperating company that is unable to respond for reasons unrelated to the antidumping case.

Department's Position: We disagree with Taisel. In accordance with section 776(c) of the Tariff Act, whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, we use BIA. In its response and case brief Taisel explained that it was unable to respoind to the Department's questionnaire since its SBTS business no longer exists. Taisel, however, had sales during the period of review which were subject to the antidumping order. Taisel is not excused from responding to the questionnaire with respect to these sales simply because Taisel no longer produces SBTS. When a respondent fails to respond to the Department's questionnaire, it is the Department's practice to use as BIA the higher of: (1) The highest of the rates found for any firm in the LTFV investigation; or (2) the highest rate found in any administrative review. Accordingly, Taisel's final BIA rate is 129.73 percent, the highest calculated rate from the LTFV investigation.

Comment 2: Taisel believes the Department should assign a BIA rate that is an intelligent approximation of the respondents' actual dumping margins, rather than a rate already determined in the original investigation to be inappropriated.

Department's Position: See the response to Taisel's *Comment 1.*

Comment 3: Taisel argues that the assignment of a punitive BIA rate from the LTFV investigation to this administrative review cannot logically be required by Department policy.

Department's Position: See the response to Taisel's *Comment 1.*

Comment 4: Taisel believes that any antidumping duty determination should only apply to completed LTFV sales. The Department should exclude sales that were canceled and have been re-exported under Customs' supervision. Taisel requests that the Department's communications to Customs clearly instruct that shipments which were canceled and returned under Customs' procedures are to be excluded from an antidumping duty order.

Department's Position: We disagree with Taisel. Due to the inability of Taisel to report its sales in response to the Department's questionnaire, we have not been able to assemble a list on an entry-by-entry basis in order to instruct Customs. We can only instruct Customs based on our analysis in an administrative review. Although it is our practice to exclude verifiable sales that were canceled and re-exported, Taisel has not provided an adequate response for us to make such an exclusion from our finding.

Final Results of Review

As a result of this review, we determine that the following margins exist for the period August 3, 1989 through November 30, 1990:

Manufacturer/exporter	Time period	Margin (percent)
Sinoca	8/03/89–11/20/90	0.15
Bitronic	8/03/89–11/20/90	6.97
Auto Telecom	8/03/89–11/20/90	129.73
Tecom	8/03/89–11/20/90	16.10
TAISEL	8/03/89–11/20/90	129.73
Taiwan Telecom*	8/03/89–11/20/90	0.00

Manufacturer/exporter	Time period	Margin (percent)
Magtron*	8/03/89-11/20/90	0.00

* No Shipments during the period; rate is from the last period in which there were shipments. This rate is based on the "All Others" rate from the LTFV investigation.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed companies will be as outlined above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 18.10 percent. This rate represents the highest rate for any firm with shipments in the administrative review, other than those firms receiving a rate based entirely on BIA.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act and 19 CFR 353.22.

Dated: June 22, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-15469 Filed 6-30-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-485-602]

Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From Romania; Amended Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of amendment to final results of antidumping duty administrative review.

SUMMARY: On March 23, 1992, the Department of Commerce submitted to the Court of International Trade the final results of redetermination pursuant to the remand order from the Court of International Trade in *Tehnoimportexport, UCF America, Inc., and Universal Automotive Company, Ltd.* v. *United States* (CIT January 23, 1992), clarified on February 5, 1992. On April 7, 1992, the Court of International Trade affirmed our redetermination. In accordance with the Court's determination, we are hereby amending the final results of the administrative review for Tecnoimportexport for the period February 6, 1987 through May 31, 1988.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Karin Price or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC, 20230; telephone (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On January 23, 1992, the Court of International Trade (CIT), in *Tehnoimportexport, UCF America, Inc., and Universal Automotive Company, Ltd.* v. *United States*, Slip Op. 92-4, clarified by the CIT on February 5, 1992, remanded to the Department of Commerce (the Department) for redetermination the final results of the administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished or unfinished, (TRBs) from Romania (56 FR 1169, January 11, 1991). In the Department's final results, the weighted-average margin for TRBs sold or imported into the United States by Tehnoimportexport (TIE) during the period February 6, 1987 through May 31, 1988 was 13.89 percent.

Plaintiffs contested the Department's calculation of labor rates, calculation of inland freight costs, and currency conversion of foreign market value (FMV). For the final results, the Department determined labor rates on the basis of 4 weeks per month and 40 hours per week, calculated freight costs by using an annual average exchange rate to convert a monthly freight cost in dinars into U.S. dollars, and converted FMV into U.S. dollars without taking into account the impact of hyperinflation in Yugoslavia, the surrogate country. The Department requested a remand on these three issues, and the Court remanded the proceeding to the Department to correct its calculations with respect to these items.

The Department issued draft remand results on March 4, 1992. We recalculated labor rates based on 4.333 weeks per month and 42 hours per week, converted inland freight costs into U.S. dollars by using the monthly exchange rate for the month of the U.S. sale, and made an adjustment to FMV to account for the difference in cost between the month of sale and the year of production which resulted from hyperinflation.

Interested parties were given an opportunity to comment on our draft remand results. Based on our analysis of the comments received, we made no changes to our calculations for the final remand results, and determined that TIE's revised weighted-average margin for the February 6, 1987 through May 31, 1988 period is 0.77 percent. The CIT affirmed our redetermination on April 7, 1992.

Amended Final Results of Review

Based on our revised calculations, we have amended our final results of review for TIE for the period February 6, 1987 through May 31, 1988. The amended weighted-average margin for TIE is 0.77 percent. The Department shallk determine, and the Customs Service

shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and FMV may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

The cash deposit rate for TIE is zero, the rate from the final results of administrative review for the 1988–1989 period. See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Romania; Final Results of Antidumping Duty Administrative Review (56 FR 41518, August 21, 1991).

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice is in accordance with section 516A(e) of the Tariff Act (19 U.S.C. 1516a(e)).

Dated: June 22, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–15470 Filed 6–30–92; 8:45 am]

BILLING CODE 3510–DS–M

Quarterly Update of Foreign Government Subsidies on Articles of Quota Cheese

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Publication of Quarterly Update of Foreign Government Subsidies on Articles of Quota Cheese.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared a quarterly update to its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Michael Rollin, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–2786 or 377–0983.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 ("the TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese.

In the current quarter the Department has determined that the subsidy amounts have changed for several of the countries for which subsidies were identified in our annual subsidy list. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the TAA.

Dated: June 24, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–15415 Filed 6–30–92; 8:45 am]

BILLING CODE 3510–DS–M

APPENDIX—QUOTA CHEESE SUBSIDY PROGRAMS

Country	Program(s)	Gross[1] subsidy (cents per pound)	Net[2] subsidy (cents per pound)
Belgium	European community (EC) restitution payments	45.1	45.1
Canada	Export assistance on certain types of cheese	29.3	29.3
Denmark	EC restitution payments	57.6	57.6
Finland	Export subsidy	149.6	149.6
France	EC restitution payments	54.5	54.5
Greece	EC restitution payments	58.4	58.4
Ireland	EC restitution payments	67.4	67.4
Italy	EC restitution payments	70.8	70.8
Luxembourg	EC restitution payments	45.1	45.1
Netherlands	EC restitution payments	46.3	46.3
Norway	Indirect (milk) subsidy	18.9	18.9
	Consumer subsidy	41.8	41.8
		60.7	60.7
Portugal	EC restitution payments	46.0	46.0
Spain	EC restitution payments	46.2	46.2
Switzerland	Deficiency payments	164.8	164.8
U.K.	EC restitution payments	54.3	54.3
W. Germany	EC restitution payments	33.7	33.7

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 92–15415 Filed 6–30–92; 8:45 am]

BILLING CODE 3510–DS–M

[C-351-810, C-307-806]

Alignment of the Final Countervailing Duty Determinations with the Final Antidumping Duty Determinations: Circular Welded Non-Alloy Steel Pipe From Brazil and Venezuela

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Paulo F. Mendes or Annika L. O'Hara (Brazil), or Larry Sullivan (Venezuela), Office of Countervailing Investigations, U.S. Department of Commerce, Room B099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–5050, 377–0588, or 377–0114, respectively.

SUPPLEMENTARY INFORMATION: On June 9, 1992, we published preliminary affirmative countervailing duty determinations pertaining to circular welded non-alloy steel pipe ("standard pipe") from Brazil and Venezuela (57 FR 24466 and 57 FR 24470). The notices stated that, if the investigations proceeded normally, we would make our final countervailing duty determinations by August 16, 1992.

On June 11, 1992, in accordance with 19 CFR 355.20(c)(2), we received a request from petitioner to align the due date for the countervailing duty determinations with the date of the final antidumping duty determinations in the investigations of standard pipe from Brazil and Venezuela. Accordingly, the final determinations in these countervailing duty investigations are due not later than September 10, 1992.

This notice is published in accordance with 19 CFR 355.20(c)(3).

Dated: June 25, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration

[FR Doc. 92–15471 Filed 6–30–92; 8:45 am]

BILLING CODE 3510–DS–M

University of Illinois at Chicago, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for each of the listed dockets.

Docket Number: 91–166. Application: University of Illinois at Chicago, Purchasing Division, 809 S. Marshfield, Chicago, IL 60612. *Instrument:* Low Pressure Chemical Vapor Deposition System. *Manufacturer:* Process Technology, Canada. *Date of Denial Without Prejudice to Resubmission:* March 11, 1992.

Docket Number: 91–177. *Applicant:* The Regents of the University of California, Material Management Department, Riverside, CA 92521. *Instrument:* Flow Sample Handling Unit, Model DX.17MV/SHU. *Manufacturer:* Applied Photophysics, United Kingdom. *Date of Denial Without Prejudice to Resubmission:* April 2, 1992.

Docket Number: 91–183. *Applicant:* East Carolina University, Materials Management, Whichard Building, Greenville, NC 27834. *Instrument:* Stopped-Flow Sample Handling Unit-Spectrometer Workstation. *Manufacturer:* Applied Photophysics, Ltd., United Kingdom. *Date of Denial Without Prejudice to Resubmission:* April 9, 1992.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92–15419 Filed 6–30–92; 8:45 am]

BILLING CODE 3510–DS–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits and Export Visa Requirements for Certain Cotton, Wool and Man-Made Fiber Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Democratic Socialist Republic of Sri Lanka

June 25, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year and amending visa requirements.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6580. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a Memorandum of Understanding (MOU) dated June 10, 1992, the Governments of the United States and the Democratic Socialist Republic of Sri Lanka agreed to amend and extend their Bilateral Textile Agreement, effected by exchange of notes dated May 23 and 24, 1988, as amended, for two one-year periods beginning on July 1, 1992 and extending through June 30, 1994.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits for the period beginning on July 1, 1992 and extending through June 30, 1993 and to amend the existing visa arrangement to include coverage of newly merged and part categories.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 53 FR 34573, published on September 7, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 25, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the

Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Memorandum of Understanding (MOU) dated June 10, 1992, between the Governments of the United States and the Democratic Socialist Republic of Sri Lanka; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on July 1, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products and silk blend and other vegetable fiber apparel in the following categories, produced or manufactured in Sri Lanka and exported during the twelve-month period beginning on July 1, 1992 and extending through June 30, 1993, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
237	214,621 dozen.
315	4,652,990 square meters.
331/631	2,069,986 dozen pairs.
333/633	40,400 dozen.
334/634	473,429 dozen.
335/835	208,309 dozen.
336/636/836	311,832 dozen.
338/339	946,858 dozen.
340/640	902,671 dozen of which not more than 306,908 dozen shall be in Categories 340-Y/640-Y [1].
341/641	1,500,000 dozen of which not more than 1,000,000 dozen shall be in Category 341 and not more than 1,000,000 dozen shall be in Category 641.
342/642/842	492,366 dozen.
345/845	127,511 dozen.
347/348/847	1,021,891 dozen of which not more than 613,135 dozen shall be in Categories 347-T/348-T/847-T [2].
350/650	88,373 dozen.
351/651	235,873 dozen.
352/652	1,009,982 dozen.
359-C/659-C [3]	972,425 kilograms.
361	500,000 numbers.
363	9,152,958 numbers.
369-D [4]	687,180 kilograms.
369-S [5]	572,649 kilograms.
635	277,745 dozen.
638/639/838	674,710 dozen.
644	378,743 numbers.
645/646	151,497 dozen.
647/648	812,273 dozen.

[1] Category 340-Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640-Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[2] Category 347-T: only HTS numbers 6103.19.2015, 6103.19.4020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.3010, 6112.11.0050, 6113.00.0038, 6203.19.1020, 6203.19.4020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.3020, 6210.40.2035, 6211.20.1520, 6211.20.3010 and 6211.32.0040; Category 348-T: only HTS numbers 6104.12.0030, 6104.19.2030, 6104.22.0040, 6104.29.2034, 6104.62.2010, 6104.62.2025, 6104.69.3022, 6112.11.0060, 6113.00.0042, 6117.90.0042, 6204.12.0030, 6204.19.3030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.3010, 6204.69.9010, 6210.50.2035, 6211.20.1550, 6211.20.6010, 6211.42.0030 and 6217.90.0050; Category 847-T: only HTS numbers 6103.29.2044, 6103.49.3017, 6103.49.3024, 6104.29.2041, 6104.29.2045, 6104.69.3034, 6104.69.3038, 6112.19.2080, 6112.19.2090, 6117.90.0051, 6203.29.3046, 6203.49.3040, 6203.49.3045, 6204.29.4041, 6204.29.4047, 6204.69.3052, 6204.69.9044, 6211.20.3040, 6211.20.6040, 6211.39.0040, 6211.49.0040 and 6217.90.0070.

[3] Category 359-C: only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659-C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[4] Category 369-D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[5] Category 369-S: only HTS number 6307.10.2005.

Imports charged to these category limits, except Category 361, for the periods February 28, 1992 through June 30, 1992, in the case of Category 315, and July 1, 1991 through June 30, 1992 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for those periods have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the MOU dated June 10, 1992 between the Governments of the United States and the Democratic Socialist Republic of Sri Lanka.

For visa purposes, effective on July 1, 1992, the following merged and part categories are being eliminated for products produced or manufactured in Sri Lanka and exported from Sri Lanka on and after July 1, 1992:

Category
445/446
341-Y [1]
341-O [2]

[1] Category 341-Y: only HTS numbers 6204.22.3060, 6206.30.3010 and 6206.30.3030.

[2] Category 341-O: all HTS numbers except 6204.22.3060, 6206.30.3010 and 6206.30.3030 (Category 340-Y).

Effective on July 1, 1992, you are directed to amend further the directive of September 1, 1988 to include coverage of the following merged and part categories:

Category
334/634
336/636/836
340/640
340-Y/640-Y [1]
340-O/640-O [2]
341/641
640-Y
640-O

[1] Category 340-Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640-Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[2] Category 340-O: all HTS numbers except 6205.20.2015,6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060 (Category 340-Y); Category 640-O: all HTS numbers except 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060 (Category 640-Y).

Merchandise in the foregoing categories which is produced or manufactured in Sri Lanka and exported from Sri Lanka on and after July 1, 1992, must be accompanied by the correct category, part category or merged part category corresponding to the actual shipment.

Goods in Categories 640 which are produced or manufactured in Sri Lanka and exported from Sri Lanka during the period July 1, 1992 through July 31, 1992 shall not be denied entry for lack of a part-category visa. Goods in Categories 640, produced or manufactured in Sri Lanka and exported from Sri Lanka on and after August 1, 1992 must be visaed as 640-Y or 640-O.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-15413 Filed 6-30-92; 8:45 am]

BILLING CODE 3510-DR-F

Textile and Apparel Categories With the Harmonized Tariff Schedule of the United States; Changes to the 1992 Correlation

June 26. 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Changes to the 1992 Correlation.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-3400.

SUPPLEMENTARY INFORMATION:

The Correlation: Textile and Apparel Categories based on the Harmonized Tariff Schedule of the United States (1992) presents the harmonized tariff numbers under each of the cotton, wool, man-made fiber, silk blend and other vegetable fiber categories used by the United States in monitoring imports of these textile products and in the

administration of the bilateral agreement program. The 1992 Correlation should be amended to reflect administrative changes which are effective on July 1, 1992:

Changes in the 1992 Correlation
Delete 6109.90.2030 (838).
Add 6109.90.2035 (438)—women's or girls' wool t-shirts, singlets, tank tops and similar garments, knitted or crocheted.
Add 6109.90.2040 (838)—women's or girls' other than wool t-shirts, singlets, tank tops and similar articles, knitted or crocheted.
Delete 6114.30.3010 (659).
Add 6114.30.3012 (459)—jumpers containing 23 percent or more by weight of wool or fine animal hair.
Add 6114.30.3014 (659)—other man-made fiber jumpers.
Delete 6211.33.0050 (659).
Add 6211.33.0052 (459)—vests containing 36 percent or more by weight of wool or fine animal hair.
Add 6211.33.0054 (659)—other man-made fiber vests.
Delete 6302.59.0000 (899).
Add 6302.59.0020 (899)—other table linen.
Add 6307.90.9482 (369)—other towels of cotton.
Add 6307.90.9484 (666)—other towels of mmf.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-15467 Filed 6-30-92; 8:45 am]

BILLING CODE 3510-DR-F

COMMODITY FUTURES TRADING COMMISSION

Commodity Exchange, Inc.; Proposed Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Commodity Exchange, Inc. (COMEX or Exchange) has applied for designation as a contract market in U.S. Gulf Coast Jet Fuel Futures. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation § 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before July 31, 1992.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the U.S. Gulf Coast Jet Fuel Futures contract.

FOR FURTHER INFORMATION CONTACT: Please contact Richard Shilts of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone 202-254-7303.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the Exchange in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the terms and conditions, or with respect to other materials submitted by the Exchange in support of the application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on June 26, 1992.

Gerald D. Gay,

Director.

[FR Doc. 92-15412 Filed 6-30-92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Environmental Assessment (EA) for Single Stage Rocket Technology (SSRT) DC-X Test Program

AGENCY: Strategic Defense Initiative Organization (SDIO), Department of Defense.

ACTION: Environmental Assessment for Single Stage Rocket Technology (SSRT) DC-X Test Program.

SUMMARY: The Strategic Defense Initiative Organization has prepared a Finding of No Significant Impact based on an assessment of the potential environmental consequences of fabricating and testing a single stage rocket technology vehicle (DC-X).

BACKGROUND: Pursuant to Council on Environmental Quality Regulations (40 CFR parts 1500-1508) for implementing the procedural provisions of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and Department of Defense (DoD) Directive 6050.1, SDIO has conducted an assessment of the potential environmental consequences of testing and validating SSRT technology to support SDIO's mission of ballistic missile defense.

The purpose of the SSRT test program is to demonstrate low cost and quick turn around time, using single stage rocket vehicles. The SSRT DC-X test program is designed to provide SDIO with a vertical launch of a suborbital recoverable rocket (SRR) capable of lifting up to 3,000 pounds of payload to an altitude of 1.5 million feet; returning to the launch site for a precise soft vertical landing; with the capability to launch for another mission within three to seven days. To validate the technology, a subscale test vehicle (DC-X) that uses oxygen and hydrogen as vehicle propellants will be fabricated, and preflight and flight tests of the vehicle will be conducted.

The DC-X vehicle components will be fabricated, assembled, and ground tested at several locations in the United States. Preflight static test firing of the assembled DC-X vehicle will occur at NASA/White Sands Test Facility (WSTF) on White Sands Missile Range (WSMR). This will be followed by flight tests consisting of a hover flight, expanded hover flight, and rotation flight at the White Sands Space Harbor (WSSH) on WSMR. Minor modifications will be required to existing facilities at NASA/WSTF, and minor construction activities at WSSH for launch activities. Static fire testing is routine at NASA/WSTF and approximately 450 launches of all types occur annually at WSMR.

Test activities for the proposed action will be conducted in accordance with applicable Federal, State, and local environmental regulations at the following locations:

Installation	Activities
Scaled Composites, Inc., Mojave, CA.	Component Assembly (aeroshell).
Chicago Bridge and Iron, Cordova, AL.	Component Assembly (propellant tanks).
Pratt & Whitney, West Palm Beach, FL.	Component Assembly (engines).

Installation	Activities
Aerojet, Sacramento, CA	Component Assembly (reaction control system).
McDonnell Douglas Space Systems Co., Huntington Beach, CA.	Component Assembly/ Preflight Tests (factory integrated systems checkout).
NASA/White Sands Test Facility, White Sands Missile Range, NM.	Preflight Tests (static fire testing).
White Sands Space Harbor, White Sands Missile Range, NM.	Flight Test Series.

The potential for significant impacts at these locations was determined through analysis of the proposed activities and compared to existing activities and conditions. Assessment of proposed action impacts were accomplished with considerations of infrastructure, safety and the following environmental media: physical setting and man-made environment; water resources; geology and soils; biological resources; threatened and endangered species; cultural resources; air quality; and noise.

The methodological approach consisted of identification of potential environmental issues and a determination of their potential significance. For any proposed action impact that could be potentially significant, it was determined implemented mitigation could reduce the impact to less than significant.

FINDINGS: All potentially significant impacts from SSRT are reduced to less than significant levels incorporating planned safety measures. These measures have been incorporated into the SSRT program as an integral part of operations at NASA/WSTF and WSSH. No significant environmental impacts were identified at the engineering contractor facilities involved in component assembly.

No significant impacts are anticipated for the physical setting and man-made environment, water resources, geology and soils, biological resources, threatened and endangered species, cultural resources, air quality, noise, or infrastructure at NASA/WSTF and WSSH. For example, personnel will wear hearing protection when in hazardous noise areas during static test firing and launch activities.

Also, personnel will be trained in the safe handling of cryogenic liquid propellants during storage tank filling and vehicle loading and drain operations, and the use of personal protection equipment for the specific hazards. Personnel safety distances and protective work practices will be incorporated in the NASA/WSTF safety plans.

Accidental explosion of DC–X on the launch pad or shortly after launch could pose a hazard to personnel in the vicinity of the launch area. The Ground Safety Officer will ensure that explosive quantity distance for each launch is implemented, and will monitor the hazard area to prevent unauthorized entry. In addition, for flight anomalies below 5,000 feet, the vehicle will impact the ground surface and may explode, depending on the amount of propellant remaining in the vehicle. However, the three sigma dispersion area is contained within a 3 mile radius from the launch site. The Flight Operations Control Center will be located approximately 3 miles from the launch site. To protect personnel from potential hydrogen fire during ground testing and after the DC–X vehicle returns from flight, infrared detectors and surveillance cameras will be installed at WSMR.

The No Action Alternative is not to develop and test the DC–X vehicle. This alternative would preclude a series of flight tests that are needed to demonstrate and validate the DC–X technology necessary to support SDIO's mission of ballistic missile defense. The concept definition for a suborbital recoverable rocket would not proceed and SDIO would continue to rely on existing suborbital rockets to support mission requirements.

Overall, no significant impacts to the environment would result from conducting the SSRT test program at NASA/WSTF, WSSH, or engineering contractor locations. Therefore, an environmental impact statement will not be prepared for the proposed action.

FOR FURTHER INFORMATION CONTACT: Mr. Crate J. Spears, SDIO/ Environmental Coordinator, SDIO/TNE, Washington, DC 20301–7100, (703) 693–1575.

Dated: June 25, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–15433 Filed 6–30–92; 8:45 am]

BILLING CODE 3810–01–M

DoD Government-Industry Technical Data Committee

AGENCY: Office of The Under Secretary of Defense (Acquisition).

ACTION: Notice.

SUMMARY: Pursuant to section 807 of Public Law 102–120, the National Defense Authorization Act for Fiscal Years 1992 and 1993, a Government-Industry Technical Data Committee has been formed. The committee will make recommendations to the Secretary of Defense for the final regulations required by subsection (a) of 10 U.S.C. 2320, "Rights in Technical Data."

The initial committee meetings are scheduled for July 16–17 and 28–29, from 9:30 A.M. to 4 P.M. at The Herman Lay Room, The U.S. Chamber of Commerce, 1615 "H" Street, NW., Washington, DC 20062–2000. These meetings will be open to the public. For more information, please contact the Committee Executive Secretary, Angelena Moy at (703) 693–5639.

Dated: June 26, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–15432 Filed 6–30–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Intent to Grant Exclusive Patent License

Pursuant to the provisions of part 404 of title 37, Code of Federal Regulations, which implements Public Law 96–517, the Department of the Air Force announces its intention to grant United Technologies Corporation, a corporation of the State of Delaware, having an office at 411 Silver Lane, East Hartford, Connecticut 06108, an exclusive, worldwide license under the following: United States Letters Patent No. 5,055,741, which matured from application Serial No. 07/553,928, filed 13 July 1990 in the name of LaVerne A. Schlie; United States Letters Patent No. 5,008,593, which matured from application Serial No. 07/553,929, filed 15 July 1990 in the name of LaVerne A. Schlie and Robert D. Rathge; and the Government interest in the following joint inventions of LaVerne A. Schlie and Robert D. Rathge: "Scalable, 5.5W CW Iodine Laser," Air Force Invention No. 20,490; "Repped Pulsed, Photolytic Iodine Laser," Air Force Invention No. 20,489; "High Flow, Low Pressure Blower," Air Force Invention No. 20,498; and "Enhanced UV Microwave Excited Lamps to be Fitted in the DC (Low ripple, approximately 1%) Power Source."

The license described above will be granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within sixty (60) days from

the date of publication of this Notice. Copies of the disclosure may be obtained upon request from the same addressee.

All communications concerning this notice should be sent to Donald J. Singer, Chief, Patents Division, Air Force Legal Services Agency, 1900 Half Street, SW., room 5160, Washington, DC 20324–1000. Telephone inquiries may be directed to (202) 475–1386.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92–15371 Filed 6–30–92; 8:45 am]

BILLING CODE 3910–01–M

Defense Logistics Agency

Privacy Act of 1974; Delete and Amend Record Systems

AGENCY: Defense Logistics Agency, DOD.

ACTION: Delete and amend record systems.

SUMMARY: The Defense Logistics Agency proposes to amend three existing record systems and delete two from the DLA inventory of record system notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The deletions will be effective July 1, 1992. The amendments will be effective without further notice on July 31, 1992, unless comments are received that would result in a contrary determination.

ADDRESSES: Privacy Act Officer, Administrative Management Branch, Planning and Resource Management Division, Defense Logistics Agency, Room 5A120, Cameron Station, Alexandria, VA 22304–6100.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 617–7583.

SUPPLEMENTARY INFORMATION: The complete inventory of Defense Logistics Agency record system notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, were published in the **Federal Register** as follows:

50 FR 22897, May 29, 1985 (DOD Compilation, changes follow)
50 FR 51898, Dec. 20, 1985
51 FR 27443, Jul. 31, 1986
51 FR 30104, Aug. 22, 1986
52 FR 35304, Sep. 18, 1987
52 FR 37495, Oct. 7, 1987
53 FR 04442, Feb. 16, 1988
53 FR 09965, Mar. 28, 1988
53 FR 21511, Jun. 8, 1988
53 FR 26105, Jul. 11, 1988
53 FR 32091, Aug. 23, 1988
53 FR 39129, Oct. 5, 1988
53 FR 44937, Nov. 7, 1988
53 FR 48708, Dec. 2, 1988
54 FR 11997, Mar. 23, 1989
55 FR 21918, May 30, 1990 (Updated Mailing Addresses)
55 FR 32284, Aug. 8, 1990
55 FR 32947, Aug. 13, 1990
55 FR 34050, Aug. 21, 1990
55 FR 42755, Oct. 23, 1990
55 FR 53178, Dec. 27, 1990
56 FR 5806, Feb. 13, 1991
56 FR 8987, Mar. 4, 1991
56 FR 11207, Mar. 15, 1991
56 FR 19838, Apr. 30, 1991
56 FR 31392, Jul. 10, 1991 (Updated Index)
56 FR 35852, Jul. 29, 1991
56 FR 52017, Oct 17, 1991
56 FR 55910, Oct. 30, 1991
56 FR 56065, Oct. 31, 1991
56 FR 65245, Dec. 16, 1991
57 FR 2715, Jan. 23, 1992
57 FR 13718, Apr. 17, 1992
57 FR 20471, May 13, 1992

The amendments and deletions are not within the purview of subsection (r) of the Privacy Act which requires the submission of an altered system report. The specific changes to the record systems being amended are set forth below, followed by the system notices, as amended, in their entirety.

Dated: June 24, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletions

S120.05 DLA-K

SYSTEM NAME: Schedule and Record of Overtime Assignment and Request, (50 FR 22901, May 29, 1985).

Reason: Identical data is kept in S120.06 DLA-KM, Supervisors' Records and Reports of Employee Time and Attendance, (50 FR 22897, May 29, 1985).

S336.60 DLA-KM

SYSTEM NAME: Position Classification Appeals, (50 FR 22925, May 29, 1985).

Reason: This system is a duplicate of OPM/GOVT–9.

* * * * *

Amendments

S120.05 DLA-KM

SYSTEM NAME:

Supervisor's Records and Reports of Time and Attendance, (50 FR 22901, May 29, 1985).

CHANGES:

* * * * *

SYSTEM IDENTIFIER:

Delete entry and replace with "S340.10 DLA-KM".

* * * * *

SYSTEM NAME:

Delete entry and replace with "Time and Attendance Labor Exception Subsystem of APCAPS".

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Name, SSN, citizenship, pay, educational level, emergency data, thrift savings enrollment, records of work tour, overtime, leave, work absences, and leave balances. Records also include information on temporary duty and special assignments."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. Chapter 61, Hours of Work; Chapter 53, Pay Rates and Systems; Chapter 57, Travel, Transportation, and Subsistence; and Chapter 63, Leave; and E.O. 9397."

* * * * *

PURPOSE(S):

Delete entry and replace with "To record employee pay rates and status, including overtime, the use of leave, and work absences.

Data is also used for statistical reports on leave and overtime use and usage patterns and to answer employee queries on leave and overtime."

* * * * *

STORAGE:

Delete entry and replace with "Records are stored in electronic and paper form."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are maintained in areas accessible only to DLA personnel who must access the records to perform their duties. The computerized files are password protected with access restricted to authorized users."

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are kept for one year after the end of the leave year and then destroyed."

* * * * *

S340.10 DLA-KM

SYSTEM NAME:

Time and Attendance Labor Exception Subsystem of APCAPS.

SYSTEM LOCATION:

Headquarters Defense Logistics Agency, Cameron Station, Alexandria, VA 22304–6100, and all Defense Logistics Agency (DLA) Primary Level Field Activities (PLFAs). All records described are not necessarily maintained by all supervisors. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DLA employees and certain former DLA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, SSN, citizenship, pay, educational level, emergency data, thrift savings enrollment, records of work tour, overtime, leave, work absences, and leave balances. Records also include information on temporary duty and special assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 61, Hours of Work; Chapter 53, Pay Rates and Systems; Chapter 57, Travel, Transportation, and Subsistence; and Chapter 63, Leave; and E.O. 9397.

PURPOSE(S):

To record employee pay rates and status, including overtime, the use of leave, and work absences.

Data is also used for statistical reports on leave and overtime use and usage patterns and to answer employee queries on leave, overtime, and pay.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Defense Logistics Agency "Blanket Routine Uses" set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic and paper form.

RETRIEVABILITY:

Records are retrieved by employee's name or SSN.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA personnel who must access the records to perform their duties. The computerized files are password protected with access restricted to authorized users.

RETENTION AND DISPOSAL:

Records are kept for one year after the end of the leave year and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Civilian Personnel Officers at DLA PLFAs. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the employee's immediate supervisor or PLFA Civilian Personnel Office where employed. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to their immediate supervisor or the PLFA Civilian Personnel Office where employed. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Request should contain full name and organizational location of employee. For personal visits, individual should be able to provide some acceptable identification such as activity identification card or driver's license.

CONTESTING RECORD PROCEDURES:

The Defense Logistics Agency rules for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21; 32 CFR part 323; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Payroll office and payroll records, including automated payroll systems, employees' supervisors, timekeepers, time and attendance clerks, leave slips.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

S339.10 DLA-K

SYSTEM NAME:

HQ DLA Automated Civilian Personnel Data Bank System, (50 FR 22927, May 29, 1985).

CHANGES:

* * * * *

SYSTEM IDENTIFIER:

Delete entry and replace with S360.10 DLA-KI.

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Headquarters Defense Logistics Agency, Office of Civilian Personnel, Cameron Station, Alexandria, VA 22304–6100."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. Chapter 3, Powers; Chapters 31–35, Employment and Retention; Chapters 41–45, Employee Performance; E.O. 10561, E.O. 9397; and Federal Personnel Manual Chapters 250, 290, and 291."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete first four sentences.

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are secured in appropriate storage containers after duty hours or when not under the control of personnel officials during duty hours. The area in which the records are stored is protected by a building security guard system. Individually identifiable personnel documents will either be hand carried or will be transmitted in envelopes addressed to a specific individual and marked to be opened by addressee only. Magnetic tape and discs are kept in a lockable computer room which has access limited to persons appropriately authorized individuals.

Tapes and disc packs are stored in a tape library when not used in processing and are logged in and out only to authorized personnel with an official need. Tapes are transmitted to the Office of Personnel Management by mail or courier. Reports with individual data are closely controlled. Personnel authorized to process these reports are periodically briefed on proper handling procedures."

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "Printouts or microfiche reports are considered as working papers to support particular projects, inquiries, studies or administrative need. They will be destroyed when the purpose for which generated has been satisfied. Magnetic

tapes and discs are to be retained for five years and then degaussed."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS(ES):

Delete entry and replace with "Headquarters Defense Logistics Agency, Office of Civilian Personnel, Cameron Station, Alexandria, VA 22304–6100."

* * * * *

S360.10 DLA-KI

SYSTEM NAME:

HQ DLA Automated Civilian Personnel Data Bank System.

SYSTEM LOCATION:

Headquarters, Defense Logistics Agency, Office of Civilian Personnel, Cameron Station, Alexandria, VA 22304–6100.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizen civilian employees of the DLA who are paid from appropriated funds, and former such employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer records and printouts containing data on current position occupied by employee, employee's current employment status with DLA, training data, and selected personnel information such as Social Security Number, name, sex, race and national origin identification, date of birth, physical handicap, government insurance, veteran's preference, military reserve status, retired military status, and education.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 3, Powers; Chapters 31–35, Employment and Retention; Chapters 41–45, Employee Performance; E.O. 10561, E.O. 9397; and Federal Personnel Manual Chapters 250, 290, and 291.

PURPOSE(S):

The purpose is to provide information to officials of DLA for effective personnel administration. Information is used to provide management data to officials of DOD by transfer of current data to the Defense Manpower Data Center (DMDC) on a quarterly basis and to provide management data for use of HQ DLA and Field officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Defense Logistics Agency "Blanket Routine Uses" set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and disc, computer paper printouts, microfiche.

RETRIEVABILITY:

Records identified to a specific civilian employee are accessed and retrieved by Social Security Number.

SAFEGUARDS:

Records are secured in appropriate storage containers after duty hours or when not under the control of personnel officials during duty hours. The area in which the records are stored is protected by a building security guard system. Individually identifiable personnel documents will either be hand carried or will be transmitted in envelopes addressed to a specific individual and marked to be opened by addressee only. Magnetic tape and discs are kept in a lockable computer room which has access limited to persons appropriately authorized individuals.

Tapes and disc packs are stored in a tape library when not used in processing and are logged in and out only to authorized personnel with an official need. Tapes are transmitted to the Office of Personnel Management by mail or courier. Reports with individual data are closely controlled. Personnel authorized to process these reports are periodically briefed on proper handling procedures.

RETENTION AND DISPOSAL:

Printouts or microfiche reports are considered as working papers to support particular projects, inquiries, studies or administrative need. They will be destroyed when the purpose for which generated has been satisfied. Magnetic tapes and discs are to be retained for five years and then degaussed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Headquarters, Defense Logistics Agency, Office of Civilian Personnel, Cameron Station, Alexandria, VA 22304–6100.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to Headquarters, Defense Logistics Agency, Office of Civilian Personnel, ATTN: DLA-KI, Cameron Station, Alexandria, VA 22304–6100.

Requester must provide last name, first name, middle initial, and Social Security Number. If request is by mail, requester must also furnish current address.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address written inquiries to Headquarters, Defense Logistics Agency, Office of Civilian Personnel, ATTN: DLA-KI, Cameron Station, Alexandria, VA 22304–6100.

Requests for information must be in writing and contain last name, first name, middle initial, date of birth, current address, phone number, phone number where individual may be reached during the day, and a signed statement certifying that the individual understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to 5,000 dollars. Complete records are maintained only on magnetic tapes or discs and are not available for access by personal visits.

CONTESTING RECORD PROCEDURES:

The Defense Logistics Agency rules for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21; 32 CFR part 323; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Input from employees of civilian personnel offices and Equal Employment Managers who obtain information from the Official Personnel Folder and other personnel documents, personal contact with individual concerned, applications and forms completed by the individual, and input from interface with the DLA Automated Payroll, Cost and Personnel System (APCAPS).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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S434.15 DLA-KP

SYSTEM NAME:

Automated Payroll, Cost and Personnel System (APCAPS) Personnel Subsystem, (51 FR 11209, March 15, 1991).

CHANGES:

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SYSTEM IDENTIFIER:

Delete entry and replace with "S360.20 DLA-KI".

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Headquarters Defense Logistics Agency, Office of Civilian Personnel, Cameron Station, Alexandria, VA 22304–6100, and at Offices of Civilian Personnel at the DLA Primary Level Field Activities (PLFAs). Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices."

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Defense Logistics Agency (DLA) members and employees and other agency employees who are serviced by the DLA PLFA personnel offices. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices."

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Current personnel data on employment status and selected personal data, such as SSN, name, grade, home address, sex, race and national origin identification, date of birth, age, physical handicap, Government health or life insurance, military reserve status, retired military status, education and training, status preceding employment with DLA, citizenship, veteran preference, and pay data."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. Chapter 3, Powers; Chapters 51–59, Pay and Allowances; E.O. 9397; E.O. 10561; Federal Personnel Manual Chapters 290 and 293."

* * * * *

PURPOSE(S):

Delete entry and replace with "The purposes of the system are to effect Federal personnel actions, maintain the Federal personnel service control system, fulfill Federal personnel reporting requirements, and provide information to officials of DLA for effective personnel management and personnel administration. The following data may be used by law enforcement, safety, and vehicle registration and parking officials: Subject's name, home and work address, and grade. Salary information may be used by management officials to determine the cost of services performed by DLA personnel."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entry and replace with "Information from this system may be provided to health or life insurance carriers, hospitals, medical offices, and institutions to verify benefits enrollment, to verify eligibility for payment of a claim, or to carry out the coordination or audit of benefit provisions.

The Defense Logistics Agency "Blanket Routine Uses" published at the beginning of the agency's compilation of systems of records notices apply to this system."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Access to records is limited to those DLA personnel who must use the records to perform their duties. The computer files are password protected with access restricted to authorized users. During nonduty hours, records are either secured in locked storage areas, locked rooms, locked buildings, or buildings protected by security guards."

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are maintained on-line in active history file for five years. After 5 years, data is off-loaded onto tape. Tapes are destroyed when no longer needed."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS(ES):

Delete entry and replace with "Staff Director, Office of Civilian Personnel, Headquarters, Defense Logistics Agency, and Offices of Civilian Personnel at the DLA Primary Level Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices."

* * * * *

S360.20 DLA-KI

SYSTEM NAME:

Automated Payroll, Cost and Personnel System (APCAPS) Personnel Subsystem.

SYSTEM LOCATION:

Headquarters Defense Logistics Agency, Office of Civilian Personnel, Cameron Station, Alexandria, VA 22304–6100, and at Offices of Civilian Personnel at the DLA Primary Level Field Activities (PLFAs). Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Defense Logistics Agency (DLA) members and employees and employees and members of other agencies who are serviced by the DLA PLFA personnel offices. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices."

CATEGORIES OF RECORDS IN THE SYSTEM:

Current personnel data on employment status and selected personal data, such as SSN, name, grade, home address, sex, race and national origin identification, date of birth, age, physical handicap, Government health or life insurance, military reserve status, retired military status, education and training, status preceding employment with DLA, citizenship, veteran preference, and pay data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 3, Powers; Chapters 51–59, Pay and Allowances; E.O. 9397; E.O. 10561; Federal Personnel Manual Chapters 290 and 293.

PURPOSE(S):

The purposes of the system are to effect Federal personnel actions, maintain the Federal personnel service control system, fulfill Federal personnel reporting requirements, and provide information to officials of DLA for effective personnel management and personnel administration.

The following data may be used by law enforcement, safety, and vehicle registration and parking officials: Subject's name, home and work address, and grade.

Salary information may be used by management officials to determine the cost of services performed by DLA personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be provided to health and life insurance carriers, hospitals, medical offices, and institutions to verify benefits enrollment, to verify eligibility for payment of a claim, or to carry out the coordination or audit of benefit provisions.

The Defense Logistics Agency "Blanket Routine Uses" published at the beginning of the agency's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer magnetic tapes or discs, computer paper printouts. Paper records in file folders.

RETRIEVABILITY:

Information identified to a specific civilian employee is accessed and retrieved by Social Security Number.

SAFEGUARDS:

Access to records is limited to those DLA personnel who must use the records to perform their duties. The computer files are password protected with access restricted to authorized users. During nonduty hours, records are either secured in locked storage areas, locked rooms, locked buildings, or buildings protected by security guards.

RETENTION AND DISPOSAL:

Records are maintained on-line in active history file for five years. After 5 years, data is off-loaded onto tape. Tapes are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Staff Director, Office of Civilian Personnel, Headquarters, Defense Logistics Agency, and Offices of Civilian Personnel at the DLA Primary Level Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to or make a personal visit to the activity where the record is maintained. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Individuals must provide name (last, first, middle initial) and SSN in order to determine whether or not the system contains a record about them. With a written request, individual must provide a return address. For personal visits, the individual should be able to provide some acceptable identification, such as employing office identification card.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves in this system must submit a written request. The request is to contain the name of the individual (last, first, middle initial), SSN, return mailing address, telephone number where individual can be reached during the day, and a signed statement certifying that the individual understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to 5,000 dollars. Complete records are maintained only on magnetic tapes or discs and are not available for access by personal visits. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

DLA rules for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21; 32 CFR part 323; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Agency supervisors and administrative personnel, medical officials, previous federal employers, U.S. Office of Personnel Management and applications and forms completed by individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 92-15434 Filed 6-30-92; 8:45 am]

BILLING CODE 3810-01-F

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before July 31, 1992.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Cary Green, (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: June 25, 1992.

Cary Green,

Director, Information Resources Management Service.

Office of Elementary and Secondary Education

Type of Review: New.
Title: Study of How Chapter 2 Operates at the Federal, State, and Local Levels (Supplement to a Study of Effective Schools Programs: Their Implementation and Success).
Frequency: One time.
Affected Public: State or local governments.
Reporting Burden:
Responses: 1,456.
Burden Hours: 1,148.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: The purpose of this study is to describe the full range of educational improvement activities supported by Chapter 2. The Department will use this information to improve Chapter 2 program operations and develop a ore effective Federal Strategy towards Educational Reform.

Type of Review: Final.
Title: State Performance Report—Chapter 1 Migrant Education Program.
Frequency: Annually.

Affected Public: State or local government.
Reporting Burden:
Responses: 51.
Burden Hours: 8,160.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: State educational agencies that have participated in the Chapter 1 Migrant Education Program are to submit the report the Department. The Department uses the information to assess the accomplishments of project goals and effective program management.

[FR Doc. 92-15394 Filed 6-30-92; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Conduct of Employees

Notice of Waiver Pursuant to Section 602(c) of the Department of Energy Organization Act (Pub. L. 95-91)

Section 602(a) of the Department of Energy ("DOE") Organization Act (Pub. L. No. 95-91, hereinafter referred to as the "Act") prohibits a "supervisory employee" (defined in section 601(a) of the Act) of the Department from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any "energy concern" (defined in section 601(b) of the Act).

Section 602(c) of the Act authorizes the Secretary of Energy to waive the requirements of section 602(a) in cases where the interest is a pension, insurance, or other similarly vested interest.

Mr. Richard M. Stark has recently been appointed to the position of Director, Systems Analysis and Standards Division, Office of Nuclear Energy. As a result of his previous employment with Westinghouse Electronic Corporation, Mr. Stark has a vested pension interest, within the meaning of section 602(c) of the Act, in the Westinghouse Pension Plan. I have granted Mr. Stark a waiver of the divestiture requirement of section 602(a) of the Act for the duration of his employment with the Department with respect to this pension interest.

In accordance with section 208, title 18, United States Code, Mr. Stark has been directed not to participate personally and substantially, as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect upon Westinghouse Electric Corporation, unless his supervisor and the Counselor agree that the financial interest in the particular matter is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of him.

Dated: June 16, 1992.

James D. Watkins,

Admiral, U.S. Navy (Retired), Secretary of Energy.

[FR Doc. 92-15483 Filed 6-30-92; 8:45 am]
BILLING CODE 6450-01-M

Proposed Finding of No Significant Impact, Consolidated Incineration Facility at the Savannah River Site, Aiken, SC

AGENCY: Department of Energy.

ACTION: Proposed finding of no significant impact.

SUMMARY: The U.S. Department of Energy (DOE) has prepared an environmental assessment (EA)(DOE/EA-0400) for the proposed construction and operation of the Consolidated Incineration Facility (CIF) at the Savannah River Site (SRS), Aiken, South Carolina. The CIF would be for the treatment of hazardous, low-level radioactive, and mixed (both hazardous and radioactive) wastes from SRS. Incineration would reduce the volume and toxicity of these wastes. Construction and operation of the CIF would be subject to the South Carolina Department of Health and Environmental Control issuing a hazardous waste permit under the Resource Conservation and Recovery Act (RCRA).

Based on the analysis presented in the EA, DOE believes that the proposed action does not constitute a major Federal action that would significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969 (42 USC 4321 *et seq.*). Therefore, DOE proposes to issue a finding of no significant impact (FONSI). This proposed FONSI is being made available for public review and comment. DOE will consider comments received in making a final determination on whether to issue a FONSI or to prepare an environmental impact statement (EIS) for the proposed CIF.

DATES: Comments on the proposed FONSI should be postmarked by July 31, 1992 to assure consideration. Comments postmarked after that date will be considered to the extent practicable.

ADDRESSES: This proposed FONSI will be distributed to those persons and agencies known to be interested in or affected by the proposed action or alternatives. Comments or requests for copies of the EA should be addressed to: Stephen Wright, Director, Environmental and Laboratory Programs Division, Savannah River Field Office, U.S. Department of Energy, P.O. Box A, Aiken, South Carolina 29802. Telephone: (803) 725-3957. FAX: (803) 725-8434.

FOR FURTHER INFORMATION CONTACT: For further information on the CIF project, contact Stephen Wright at the above address. For further information on DOE's general NEPA procedures, contact: Carol M. Borgstrom, Director, Office of NEPA Oversight (EH-25), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Telephone: (202) 586-4600 or (800) 472-2756.

PROPOSED ACTION: The SRS CIF is part of a combination strategy for the treatment, storage, and disposal of SRS waste as described in the Final EIS, Waste Management Activities for Groundwater Protection, Savannah River Plant, Aiken, South Carolina (DOE/EIS-0120).

The proposed action involves the construction and operation of the CIF for (1) the treatment of hazardous and mixed waste at SRS to enable SRS to comply with RCRA requirements for the treatment of hazardous and mixed wastes before land disposal; (2) volume reduction of low-level radioactive waste before disposal; and (3) the elimination of current SRS shipments of burnable hazardous waste for off-site treatment and disposal. The CIF is proposed to start operating in 1995.

The types of waste proposed to be incinerated by the CIF include hazardous waste and low-level radioactive and mixed waste (waste that is or is presumed to be both hazardous and radioactive). These wastes are primarily generated during normal SRS operations and consist of solids, sludges, and organic and aqueous liquids; examples are oils, paints, solids, solvents, rags, clothing, and floor cleaning equipment. The CIF would not receive or treat waste containing dioxins or polychlorinated biphenyls.

The CIF would have a rotary kiln combustion chamber and a secondary combustion chamber (SCC) to ensure 99.99 percent destruction of all hazardous constituents. The CIF offgas treatment system would ensure that the SCC offgas meets all applicable regulatory requirements before discharge to the environment. At designed operating capacities, approximately 30 pounds per hour of residual ash would result from CIF operation and would be solidified for

disposal at SRS in a proposed RCRA-permitted facility.

The CIF would be located near the center of the SRS in the 200-H Chemical Separations Area. The facility would consist of a new concrete and steel open building of approximately 31,000 square feet with processing facilities, control rooms, waste receiving areas, and waste handling areas. The CIF process building would have an exhaust stack to handle the offgas from the incinerator and the exhaust air from the building ventilation system. The offgas would be cooled in a quench vessel and would enter a free jet scrubber to remove particulates and acid gases before entering a cyclone separator to remove entrained moisture. The offgas would also pass through a mist eliminator, and a series of high-efficiency particulate air (HEPA) filters to remove fine particulates (including radioactive particulates) before the emissions would be monitored and released through the stack. The building ventilation system would provide exhaust hoods around each of the kiln seals for the collection and HEPA filtration of any emissions.

ALTERNATIVES CONSIDERED: Under the No Action alternative, the CIF would not be constructed or operated. Untreated waste would continue to accumulate at SRS. This would not allow SRS operations to comply with RCRA land ban requirements.

An off-site treatment and disposal alternative would involve shipping burnable hazardous waste to off-site incinerators (DOE or commercial) and shipping mixed wastes to off-site DOE mixed waste incinerators (commercial capacity is not available). However, sufficient capacity would not be available at DOE incinerators for the volume of SRS mixed waste. Even if capacity were available, the alternative would impose the costs and environmental impacts of necessary modifications to these other facilities and of off-site transportation of hazardous and mixed wastes. It would also make SRS operations more dependent upon the availability of other facilities.

Another alternative is to construct two incinerators at SRS—one incinerator to burn miscellaneous solid and liquid hazardous wastes, with a subsequent upgrade to handle radioactive waste, and the second to burn only organic liquid waste from the Defense Waste Processing Facility. This alternative would allow the use of different technologies and potentially lower direct treatment costs. However, this alternative would substantially duplicate facilities and increase costs. The duplication of equipment would also result in higher actual and potential emissions, e.g., from duplicate tank vents. Moreover, a single incinerator and two separate incinerators would have to meet the same destruction and removal efficiency requirements and other offgas quality standards. Therefore, separate facilities would not necessarily or significantly reduce pollutant emissions compared to a single facility.

Other treatment methods for hazardous wastes considered as alternatives are solidification, biological treatment, and chemical treatment. A separate treatment method could be used for each waste stream, possibly increasing the efficiency of the treatment of each waste. If separate waste treatment processes were chosen, facility costs would be higher because of the need to construct, operate, and maintain multiple facilities. Such multiple facilities would increase land usage and fugitive emissions and possibly duplication of equipment. No other treatment method compares favorably with incineration, which the U.S. Environmental Protection Agency (EPA) has identified (40 CFR part 268) as the Best Demonstrated Available Technology for treatment of many hazardous wastes.

ENVIRONMENTAL CONSIDERATIONS: The CIF would occupy 3 acres of previously developed land adjacent to H-Area, a location that has been subjected to construction impacts since the early 1950s. The peak construction workforce of 175 workers would have negligible effects on area land use, housing, and social services. No significant impacts on ecological resources are expected due to the minimal habitat quality of the proposed CIF site. No floodplains, wetlands, or archaeological or historical sites exist on the proposed site. Air quality impacts from construction activities are expected to be negligible. Once operational, the facility would employ 39 people. It is anticipated that many of these positions would be filled by personnel already employed at SRS.

Liquid wastes from CIF processing operations would be collected in permitted storage tanks before being treated for disposal in a SRS RCRA permitted vault disposal unit. Other liquid wastes, such as sanitary wastewater, would be analyzed and treated, as appropriate, before being discharged in compliance with current National Pollutant Discharge Elimination System permits.

Air emissions from the CIF would be controlled to levels significantly below the applicable EPA Prevention of Significant Deterioration emission requirements. Therefore, the CIF would not be expected to significantly change regional ambient air quality or affect public health. The CIF would be designed and operated to achieve a 99.99 percent minimum destruction and removal efficiency of principal organic hazardous constituents, as required by South Carolina air pollution control and hazardous waste management regulations for the wastes proposed to be incinerated at the CIF. Trial burn and periodic emission monitoring programs required by state and Federal regulations would be undertaken to confirm that CIF air emissions are within state and Federal standards.

The National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations (40 CFR part 61) limit radionuclide emissions from DOE facilities to not exceed amounts that would cause more than 10 mrem per year of effective dose-equivalent to any member of the public. A NESHAP permit for CIF construction has been obtained from EPA. Total annual radionuclide releases to the atmosphere from the proposed CIF routine operations are estimated to be 1200 curies. The maximum effective dose to an individual at the SRS boundary from such releases is projected to be 0.003 mrem per year. The maximum combined dose from the existing operation of SRS and the CIF would remain at approximately 0.5 mrem to the maximally exposed individual at the plant boundary. This is well below the NESHAP limit.

Routine CIF processing activities would result in only minor and ordinary radiological and chemical exposures to on-site operating personnel. Engineering and administrative controls would ensure that the annual effective dose equivalent to any SRS worker would not exceed the DOE limit of 5 rem (DOE order 5480.11) and that any chemical exposure is within safe limits.

Potential accidents associated with CIF operations are addressed in the EA and a safety assessment document for the facility. Facility accidents addressed in the EA include natural phenomena (wind or tornado), earthquakes, fire, nuclear criticality, explosion in the incinerator chamber(s), benzene release, and human-caused external events. On-site transportation accidents were also evaluated. Using a relation between radiation dose and consequent health effects of 4×10^{-4} latent cancer fatalities per person-rem, none of these accidents would be expected to produce any radiation-induced fatal cancers in the

exposed population, either on-site or off-site.

For carcinogens such as benzene, EPA requires that risk be reduced to below 10^{-4} (i.e., 1 excess cancer death in ten thousand people) in exposed receptors. In the case of benzene release under maximum credible accident conditions involving a spill of the benzene inventory into the secondary containment system, the carcinogenic risk is 6×10^{-7} for the maximally exposed off-site individual, 4×10^{-6} for an individual at the spill site, and 2×10^{-5} for an on-site individual 5 miles from the spill, when computed using the EPA risk assessment methodology. Smaller but potentially more frequent releases could occur from minor spills or process upsets. However, the analysis determined that no chronic exposure hazards would exist for on-site or off-site populations, and that the probability of an accident that could produce a harmful exposure would be very low.

PROPOSED DETERMINATION: Based on the information and the analyses in the EA for the CIF, DOE believes the proposed action does not constitute a major Federal action that would significantly affect the quality of the human environment within the meaning of NEPA. Therefore, DOE proposes to issue a FONSI and not require the preparation of an EIS. DOE will make a final determination after a 30-day public comment period.

Issued at Washington, DC, this 24th day of June.

Peter N. Brush,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 92-15464 Filed 6-30-92; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Forms EIA-1, 3, 4, 5, 6, 7A, and 20 (Coal Program Package)

AGENCY: Energy Information Administration, Energy.

ACTION: Notice of the Proposed Extension of the EIA-1, 3, 4, 5, 6, 7A, and 20 (Coal Program Package) and Solicitation of comments concerning proposed changes to the Coal Survey Forms.

SUMMARY: The Energy Information Administration (EIA), as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1980, as amended, Public Law 96-511, 44 U.S.C. 3501 *et seq.*), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, EIA is soliciting comments concerning the proposed revisions and a three year extension of approval for its coal forms. The forms include: EIA-1, "Weekly Coal Monitoring Report—General Industries and Blast Furnaces"; EIA-3, "Quarterly Coal Consumption Report—Manufacturing Plants"; EIA-4 "Weekly Coal Monitoring Report—Coke Plants"; EIA-5 "Coke Plant Report—Quarterly"; EIA-6 "Coal Distribution Report"; EIA-7A, "Coal Production Report"; and EIA-20, "Weekly Telephone Survey of Coal Burning Utilities."

DATES: Written comments must be submitted on or before July 31, 1992. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so, as soon as possible.

ADDRESSES: Send comments to Mary K. Paull, Energy Information Administration, EI-522, Forrestal Building, U.S. Department of Energy, Washington, DC 20585, [telephone number: 202-254-5379).

FOR FURTHER INFORMATION OR TO OBTAIN COPIES OF THE PROPOSED FORM AND INSTRUCTIONS: Requests for further information or copies of the form and instructions should be directed to Mary K. Paull at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. 93-275) and the Department of Energy Organization Act (Pub. L. 95-91), the Energy Information Administration is obliged to carry out a central, comprehensive, and unified energy data and information program which will collect, evaluate, assemble, analyze, and disseminate data and information related to energy resource reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs. To meet this responsibility, as well as internal DOE Requirements that are dependent on accurate data, the EIA conducts statistical surveys that encompass each significant coal supply, distribution and consumption activity in the United States.

II. Current Actions

EIA proposes an extension with changes to its existing EIA-3, 5, and 6 collections. The EIA 1, 4, 7A and 20 survey forms will remain unchanged. These changes will have little impact on respondent burden, reflect current industry operations better and respond better to the data needs arising from the Clean Air Act Amendments of 1990 and congressional and Federal agency data users' requirements. The proposed changes are summarized below:

1. EIA-3

An annual supplement will be added to collect additional data on the quality and origin of coal receipts during the year. Specifically, respondents will be asked to report the average Btu, sulfur, and ash content of the coal received during the year and the quantities of coal received during the year by State of origin for domestic coal purchases and country of origin for imported purchases.

2. EIA-5

An annual supplement will be added to collect additional data on the quality and origin of coal receipts during the year. Specifically, respondents will be asked to report the volatile content percentages and the sulfur and ash content of their bituminous coal receipts during the year. Also, respondents will be asked to report the quantities of coal received during the year by State of origin for domestic coal purchases or origin country for imported coal purchases.

3. EIA-6

a. The foreign distribution section of the form (Section III.D.) will be expanded. Specifically, the overseas exports data element will be broken out in more detail into metallurgical and steam uses by continent and major importing countries (i.e., approximately 15 possible countries covering the main destinations of U.S. coal exports).

b. A secondary methods of transportation breakdown, similar to that already asked for in Sections III.B, C and D, will be added to Section III.A. (Rail Shipments) to pick up secondary methods of transportation data.

III. Request for Comments

Prospective respondents and other interested parties should comment on

the proposed (extension and/or revisions). The following general guidelines are provided to assist in the preparation of responses. Please indicate to which form your comments apply.

As a potential respondent:

A. Are the instructions and definitions clear and sufficient? If not, which instructions and definitions require clarification?

B. Can the data be submitted using the definitions included in the instructions?

C. Can the data be submitted in accordance with the response time specified in the instructions?

D. Public reporting burden (hours per response) for each of the following forms is shown below:

EIA–1=1.0 hrs.; *EIA–3*=0.5 hrs.; *EIA–3 annual supplement (proposed)*=0.5 hrs.; *EIA–4*=1.0 hrs.; *EIA–5*=1.0 hrs.; *EIA–5 annual supplement (proposed)*=0.5 hrs.; *EIA–6 (including the proposed additional data)*=1.5 hrs.; *EIA–7A*=1.21 hrs.; and *EIA–20*=1.0 hrs.

How much time do you estimate will be required to complete and submit the required form(s)? Include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

E. What is the estimated cost of completing the form(s), including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form(s) be improved?

G. Do you know of any other Federal, State, or local agency that collects similar data? If you do, please specify the agency, the data element(s), and the means of collection.

As a potential user:

A. Can you use data at the levels of detail indicated on the form(s)?

B. For what purpose(s) would you use the data? Be specific.

C. How could the form be improved to better meet your specific needs?

D. Are there alternate sources of data and do you use them? What are their deficiencies and/or strengths?

EIA is also interested in receiving comments from the general public regarding their views on the need for the information contained in the Coal Program Package.

Comments submitted in response to this Notice and Solicitation will be summarized and/or included in the request for OMB approval of the form(s). They also will become a matter of public record.

Statutory Authorities: Sections 5(a), 5(b), 13(b), and 52 of Pub. L. No. 93–275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b) and 790a.

Issued in Washington, DC, June 23, 1992.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 92–15466 Filed 6–30–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 11076–000 Washington]

City of Tacoma, Washington; Availability of Environmental Assessment

June 25, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major license for the proposed Barrier Dam Hydroelectric Project, to be located on the Cowlitz River in Lewis County, near Salkum, Washington, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the project and has concluded that approval of the proposed project, with appropriate mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92–15392 Filed 6–30–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RM91–11–000; Order No. 636]

Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; Order Granting Motion in Part

Issued June 24, 1992.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order on motion for establishment for discovery procedures.

SUMMARY: The Commission issued a final rule in Order No. 636 (57 FR 13267 (April 16, 1992)), III FERC Stats. and Regs. ¶ 30,939, on April 8, 1992, changing its regulations to restructure the services provided by interstate natural gas pipelines. This order establishes procedures for participants in pipeline restructuring proceedings to exchange information relevant to the evaluation and implementation of restructuring proposals.

EFFECTIVE DATE: This order will become effective on the date of issuance, June 24, 1992.

FOR FURTHER INFORMATION CONTACT: Mary E. Benge, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (202) 208–1124.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this order will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in 941 North Capitol Street, NE., Washington, DC 20426.

In Re Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations; Order Granting Motion in Part

[Docket No. RM91–11–000]

Issued June 24, 1992.

On May 28, 1992, Natural Gas Clearinghouse (NGC) filed a motion for the establishment of discovery procedures in all pipeline Order No. 636 restructuring proceedings.[1] NGC

[1] NGC submitted similar motions in a number of individual pipeline restructuring proceedings.

In addition to NGC's motion, the issue of the establishment of formal discovery procedures has been raised by Tejas Power Corporation and Public

Continued

submits that discovery procedures are necessary for the restructuring process to move forward in an orderly fashion. The Commission agrees that an exchange of information is important for the restructuring process to proceed smoothly with meaningful participation by the parties, although not necessarily through formal discovery. Therefore, the Commission sets forth in this order a procedure for participants in pipeline restructuring proceedings to exchange information relevant to the evaluation and implementation of restructuring proposals.

NGC's Motion

NGC states that on March 15, 1992, it served a number of major pipelines with a standardized data request, asking that they provide the requested data no later than July 7, 1992.[2] NGC states that both the timing and the content of its data requests were chosen in order to allow the pipeline recipients to be simultaneously developing defensible settlement positions and gathering data responsive to the request. NGC states that its purpose in initiating this informal discovery process was twofold: To obtain information that is essential to its efforts to come to a reasoned understanding of the consequences of Order No. 636 for each pipeline system, and to participate in pipeline restructuring conferences in a constructive and substantive manner. NGC states that its attempts to obtain information through this process have met with mixed results.

NGC urges the Commission to establish generic discovery procedures under subpart D of the Commission's Rules of Practice and Procedure in order to clarify the mutual obligations of the pipelines and the parties to participate in meaningful discovery. NGC submits that generic procedures are preferable to different sets of discovery procedures for each of the numerous cases involving predominantly the same issues, particularly when parties' resources are best spent exploring settlement.

Answers in opposition to NGC's motion were filed by Enron Interstate Pipelines, Great Lakes Gas Transmission Limited Partnership, Interstate Natural Gas Association of America, Natural Gas Pipeline Company of America, Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company, the Coastal Companies, Southern Natural Gas Company, Pacific Gas Transmission Company, Panhandle Eastern Pipe Line Company and Trunkline Gas Company, and Texas Eastern Transmission Corporation and Algonquin Gas Transmission Company. The Producer Associations, UGI Utilities, Inc., Rochester Gas and Electric Corporation and New York State Electric & Gas Corporation, and Arco Oil and Gas Company and Arco Natural Gas Marketing, Inc. filed answers in support of the motion.

Discussion

The Commission recognizes the validity of the parties' need for relevant information, and the Commission encourages participants to voluntarily exchange the necessary background and supporting data, both now in the pre-filing phase, as well as later, when additional information may be necessary for the evaluation of pipeline restructuring compliance filings. The Commission also recognizes the pipeline's need to be free of the burdensome aspects of discovery while preparing its compliance filing. Therefore, in an effort to balance these interests, the Commission will establish a procedure which will both facilitate information exchanges and avoid unduly burdensome discovery. The Commission will not establish procedures under subpart D of the Commission's Rules of Practice and Procedure, because Subpart D sets forth discovery procedures only for proceedings set for hearing, and the restructuring proceedings are not in litigation.

To avoid the burden on the pipelines of numerous and repetitive data requests in the pre-filing stage, the Commission will direct staff, in each individual pipeline restructuring proceeding, to submit to the pipeline a data request.[3] The staff data requests will be a delegated exercise of the Commission's authority to obtain information from the pipelines under the Natural Gas Act. While this procedure will obligate the pipeline to respond to data requests from only one source, the Commission strongly encourages the pipelines to voluntarily supply as much information as possible to the parties to restructuring proceedings.

The staff data requests should be designed to elicit two categories of information: (1) General factual information about the pipeline system that will be helpful to the parties during ongoing restructuring discussions, and (2) information about the specific methods for compliance chosen by the pipeline. The first category would include information such as the different components of the pipeline's system, flow diagrams, constraint points, any capacity held on upstream pipelines or storage under contract, the current entitlements of its customers, and the pipeline's Account No. 191 balance. This information should be obtained as soon as possible to be useful to the parties in the pre-filing restructuring discussions and is the type of information that should be readily at hand and easily produced.

The second category of information, providing information specific to the restructuring proposed by the pipeline, must be tailored to the specific summary proposal that each pipeline must serve by July 7, 1992. The Commission recognizes that the parties to the restructuring proceedings must have sufficient information to have a complete understanding of the pipeline's proposal in order to make the service choices envisioned by the rule. Staff may impose deadlines for answers to the data request which will ensure that responses are provided within a relevant time to be useful during the restructuring proceedings. The Commission expects that a pipeline's proposal is likely to undergo changes as result of discussions with the parties. However, to the extent a pipeline does not provide sufficient information to support its proposal during the proceeding, staff is expected to request information as necessary to ensure a full understanding of the proposal as it develops. In addition, the pipeline should submit similar explanatory and supporting information with its compliance filing to assist parties in evaluating and commenting on the filing.

The Commission does not intend the production of the data to be requested to provide a justification to delay compliance with the Order No. 636. Rather, it is intended to ensure that the pipelines provide sufficient support for their proposals so that the parties can participate fully in the restructuring discussions. The data requests that staff must formulate in each individual case may request much of the same data sought by NGC. However, staff must tailor its requests so that it does not request information at a level of detail that is unnecessary or unduly burdensome. For example, NGC seeks copies of various contracts and service

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Service Company of Colorado, Western Gas Supply Company, and Cheyenne Light, Fuel and Power Company, in rehearing requests of Order No. 636.

[2] NGC appends to its motion a representative sample of the data request and a list of pipeline recipients of the request.

[3] Some pipelines have filed motions for termination of restructuring proceedings on the basis that they are in compliance with Order No. 636. If the Commission makes a finding of compliance and terminates a restructuring docket, of course, staff will not be expected to send the pipeline a data request.

agreements that the pipeline holds with other parties. For the purposes of restructuring proceedings, a summary of these documents should suffice, would be less burdensome, and at the same time, eliminate any possible concerns regarding confidentiality. Therefore, the Commission directs staff not to request pipelines to furnish copies of documents such as service agreements or records of transactions. Nor is it necessary, for example, to burden pipelines with requests for information already available in the Commission's files in pending cases or in annual reports.

Since the purpose of these data requests is to provide parties in the restructuring proceedings with useful information, all participants to the restructuring proceeding must be served with a copy of the responses to staff's data requests. Unlike the discovery procedures used for proceedings in litigation, any material that is provided to the Commission's advisory staff must be served on all participants. The Commission recognizes that the service lists in these proceedings are lengthy and that it is important that information be disseminated as quickly as possible. Therefore, data should be provided both in electronic format, as much as possible, and in hard copy. Exchange of data by any means other than that specified in the regulations may be made by electronic mail or any other means acceptable to the parties.

If, after being served with responses to staff's data requests, parties to a restructuring proceeding need additional information, the Commission expects the parties to first request the information from the pipeline. Pipelines are encouraged to respond to such requests where possible. If a dispute arises regarding request for material, in addition to that requested in the staff data requests, the parties should make every effort to resolve the dispute informally. Staff will assist the parties in resolving any disputes, consistent with the Commission's *ex parte* regulations which apply in the restructuring proceedings. All data requests and responses must be served on all parties or otherwise publicly available.

If disputes cannot be resolved informally, any party seeking additional data should present its request to the Commission in its response to the pipeline's compliance filing. At that time the Commission, and not staff, will resolve any disputes. Pursuant to the Notice of Procedures, issued May 22, 1992, in each of the restructuring proceedings, responses to compliance filings are due 21 days after the compliance filing is made. At that time the party can make a case for its need for further discovery. The Commission will not consider requests for more information until after the compliance filing is made so that the Commission can evaluate the relevance of the request. If the Commission determines the need exists, then the Commission will direct the procedures to be followed to acquire the relevant information. In addition, if the pipeline has not voluntarily made available all the necessary supporting information related to the particular way the pipeline intends to implement Order No. 636, that information should be requested after the compliance filing is made.

In sum, the procedure set forth here represents a compromise to serve both the need of the parties to have sufficient information to participate meaningfully in the restructuring process, and the need for pipelines to expend their time and resources on meeting the timetable for filing in compliance with Order No. 636.

The Commission Orders

(A) NGC's motion is granted, in part, as discussed in the body of this order.

(b) The Commission staff is directed to send data requests to each pipeline for which the Commission has established a restructuring docket, as discussed in the text above.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-15384 Filed 6-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-07373T Texas-58]

State of Texas; NGPA Determination by Jurisdictional Agency Designating Tight Formation

June 25, 1992.

Take notice that on June 22, 1992, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Wolfcamp Formation underlying a portion of Terrell County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is located within Railroad Commission District 7C and is described as:

CCSD & RGNG RR Co. Survey, Block 1
Sections 1 and 6
University Lands Survey, Block 35
Section 31
TCRR Co. Survey, Block 1
Sections 38, 49 through 52 and 66 through 68

The notice of determination also contains Texas' findings that the referenced portion of the Wolfcamp Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-15393 Filed 6-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-143-011]

CNG Transmission Corp. Report of Refunds

June 25, 1992.

Take notice that on April 17, 1992, CNG Transmission Corporation (CNG) tendered for filing its Report of Refunds in compliance with the March 6, 1992 letter order issued by this Commission under Docket No. RP90-143-006. Such order required CNG to make refunds to its customers and submit a report to the Commission detailing the distribution of the refunds to the various customers and setting forth the data and computations supporting such distribution.

CNG states that it has distributed all applicable refunds to its jurisdictional sales and transportation customers on March 17 and April 6, 1992, with interest, in accordance with the Commission's March 6 Order.

CNG further states that it has served copies of the refund report to all its customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 2, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-15389 Filed 6-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-204-007]

East Tennessee Natural Gas Co.; Rate Filing

June 25, 1992.

Take notice that on June 18, 1992, East Tennessee Natural Gas Company ("East Tennessee"), submitted for filing ten copies of the following tariff sheets:

Effective May 1, 1992 (RP91-204-000 and RP90-111-000)

First Revised Volume No. 1

Second Substitute Twentieth Revised Sheet No. 4
Second Substitute Twentieth Revised Sheet No. 5

Effective June 1, 1992 (TQ92-3-2)

First Revised Volume No. 1

Second Substitute Twenty-first Revised Sheet No. 4
Second Substitute Twenty-first Revised Sheet No. 5

Effective July 1, 1992 (TQ92-4-2)

First Revised Volume No. 1

Second Substitute Twenty-second Revised Sheet No. 4
Second Substitute Twenty-second Revised Sheet No. 5

East Tennessee states that the purpose of the filing is to clarify a footnote included on its June 3, 1992 filing in these dockets.

East Tennessee states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 2, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-15386 Filed 6-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-133-001 (Phase II)]

Gas Research Institute; Annual Application

June 25, 1992.

Take notice that on June 17, 1992, Gas Research Institute (GRI) filed an application requesting advance approval of its 1993-1997 Five-Year Research and Development (R&D) Plan, 1993 R&D Program, and the funding of its R&D activities for 1993, pursuant to the Natural Gas Act and the Commission's Regulations, particularly 18 CFR 154.38(d)(5) (1991).

In its application, GRI proposes contract obligations of $201.8 million and cash outlays of $197 million in 1993. GRI's application seeks to collect $182,971,329 through jurisdictional rates and charges during the 12 months ending December 31, 1993. GRI states that this $182.9 million, plus additional funds collected on intrastate transactions, along with a draw-down of GRI's cash balance during 1993 from $22.8 million to $13.2 million, will provide the necessary cash to fund the 1993 R&D program. GRI also intends to decrease its general expenses, capital purchased and program management expenses in 1993.

GRI proposes to fund the 1993 R&D program through: (1) A volumetric funding unit surcharge of 1.51 cents per Mcf (1.47 cents per Dth); and (2) a uniform demand or reservation surcharge of 8 cents per Dth per month, as described in GRI's "Second Amendment to Modified Funding Mechanism," filed in Phase I of this proceeding on May 26, 1992. Parties in their comments to GRI's application should address the size and scope of GRI's proposed 1993 R&D Program in light of GRI's proposed Phase I methodology for funding that program.

Further, GRI states that it plans to devote more attention to enhanced technology transfer efforts designed to stimulate more rapid "deployment" of products and processes featuring GRI-sponsored developments. In this regard, GRI is proposing to fund efforts for two activities, a Heat Treating Application Center and a Residential Desiccant Dehumidifier, that are somewhat of a departure from previous field experiment and testing activities.

GRI also proposes a limited increase in reprogramming flexibility. GRI's proposal would allow reprogramming between program areas for the purpose of pooling funds for cooperative projects involving environment and safety, economics and systems research, or basic research. In addition, in accordance with the current requirements with respect to reprogramming, GRI requests approval to reprogram up to $2.7 million of already-approved funds into two project areas within Gas Operations.

GRI also proposes cofunding guidelines for End Use and Supply applied R&D activities, *i.e.*, those intended to result in marketable processes or hardware products. Those guidelines are: (1) Best efforts will be used to achieve cofunding prior to proof-of-concept (POC); (2) at least 20 percent cofunding will be achieved beyond POC, except that for qualifying small businesses the guideline will be 10 percent; and (3) at least 33 percent cofunding will be achieved for any GRI-funded post-field test efforts, except that for qualifying small businesses the guideline will be 15 percent. Parties in their comments to GRI's application may wish to address the cofunding requirements included in Title IV of H.R. 776.

The Commission Staff will analyze GRI's application and prepare a Commission Staff Report. This Staff Report will be served on all parties and filed with the Commission as a public document on August 14, 1992. Comments on the Staff Report and GRI's application by all parties, except GRI, must be filed with the Commission on or before August 31, 1992. GRI's reply comments must be filed on or before September 14, 1992.

Any person desiring to be heard on or to protest GRI's application, except for GRI members and state regulatory commissions, who are automatically permitted to intervene, should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 6, 1992. All comments and protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party, other than a GRI member or a state regulatory commission, must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-15385 Filed 6-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-24-001]

Natural Gas Pipeline Company of America; Filing of Report of Refund

June 25, 1992.

Take notice that Natural Gas Pipeline Company of America (Natural) on February 3, 1992, tendered for filing its Report of Distribution of Refunds made in compliance with Natural's FERC Gas Tariff, Third Revised Volume No. 1.

Natural states that copies of the filing were served upon Natural's jurisdictional customers, intervenors and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 2, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-15387 Filed 6-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-229-006]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

June 25, 1992.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on June 22, 1992, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Sub Third Revised Sheet No. 32-AC
2nd Sub Original Sheet No. 32-AQ.4
Substitute Original Sheet No. 32-AQ.5
Sub Second Revised Sheet No. 32-BF
2nd Sub Third Revised Sheet No. 32-BS
2nd Sub Second Revised Sheet No. 32-BT
2nd Sub Original Sheet No. 32-BU.5
Substitute Original Sheet No. 32-BU.6
Substitute Original Sheet No. 43-04.5
Original Sheet No. 43-04.6
Substitute Original Sheet No. 43-14.5
Substitute Original Sheet No. 43-14.6

Panhandle requested an effective date of April 1, 1992 as provided in the Commission's October 31, 1991 suspension order.

Panhandle states that the revised tariff sheets are being filed in compliance with Ordering Paragraph (B) of the Commission's Order Terminating Technical Conference Proceeding, Granting Rehearing in Part and Denying Rehearing in part (June 1, 1992). Ordering Paragraph (B) of the referenced order required Panhandle to file revised tariff sheets consistent with certain findings respecting: (i) The billing of charges upon the termination, suspension or inapplicability of Panhandle's PGA; (ii) firm transportation queuing procedures; (iii) the Account 858 tracker; (iv) provision for the use of predetermined receipt point allocations; and (v) the forfeiture of prepaid reservation fees.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 2, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-15388 Filed 6-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-8-17-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

June 25, 1992.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on June 19, 1992 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies each of the following tariff sheets:

Forty-seventh Revised Sheet No. 50.2
Sub Forty-seventh Revised Sheet No. 50.2

Texas Eastern states that these sheets are being filed pursuant to Section 4.F of Texas Eastern's Rate Schedules SS-2 and SS-3 to flow through a change in CNG Transmission Corporation's (CNG) Rate Schedule GSS rate which underlies the rates for Texas Eastern's Rate Schedules SS-2 and SS-3.

Texas Eastern states that on May 1, 1992 CNG made a tariff filing in Docket Nos. TQ92-3-22-000 and TM92-6-22-000 which revises the Rate Schedule GSS Storage Demand rate effective June 1, 1992.

Texas Eastern states that Forty-seventh Revised Sheet No. 50.2 will be used for purposes of billing the revised Rate Schedule SS-2 and SS-3 rates effective June 1, 1992 while Sub Forty-seventh Revised Sheet No. 50.2 will be used for purposes of determining the refund in accordance with the Stipulation and Agreement.

The proposed effective date of the above tariff sheets is June 1, 1992.

Texas Eastern states that copies of the filing were served upon Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 2, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-15391 Filed 6-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-147-005]

Transcontinental Gas Pipe Line Corp.; Report of Refunds

June 25, 1992.

Take notice that on April 27, 1992, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing its Report of Refunds in compliance with the April 2, 1992 letter order issued by this Commission under Docket Nos. RP90-179-000 and RP91-147-000. Such order required Transco to refund Litigant Producer Settlement Payment charges applicable to Sun Company (Sun) and Sun Refining and Marketing Company (SRM) for the period June 1, 1991 through March 31, 1992. Additionally, Transco was to submit a report to the Commission detailing the distribution of the refund and setting forth the data and computations supporting such distribution.

Transco states that on April 24, 1992, it issued refunds totalling $56,471.33, including interest, to Sun and SRM in accordance with the Commission's April 2, Order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission,

825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 2, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–15390 Filed 6–30–92; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 92–58–NG]

Fulton Cogeneration Associates; Application to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed April 29, 1992, by Fulton Cogeneration Associates (Fulton), as supplemented May 11, 1992, for blanket authorization to import up to 12,500 Mcf per day of natural gas from Canada. The authorization would be for a period of two years beginning on the date of the first delivery. This gas would be purchased on the spot market and consumed at Fulton's cogeneration powerplant in Fulton, New York. Fulton proposes to import the volumes at any point on the U.S./Canada border where existing pipeline facilities are located and no new U.S. pipeline facilities would be required in connection with the proposed imports. Fulton would file quarterly reports with FE detailing each transaction.

The application is filed under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time July 31, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478.

FOR FURTHER INFORMATION CONTACT:

Stanley C. Vass, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9482.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–0503.

SUPPLEMENTARY INFORMATION: The decision on Fulton's application for import authority will be made consistent with DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Fulton asserts that its proposed import arrangements would be competitive. Parties opposing Fulton's request for import authorization bear the burden of overcoming this assertion and should comment in their responses on the issue of competitiveness as set forth in the policy guidelines.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C., 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Fulton's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, June 24, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–15465 Filed 6–30–92; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

(FRL–4149–1)

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATE: Comments must be submitted on or before July 31, 1992. For Further Information or to obtain a copy of this ICR contact Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: EPA Worker Protection Standards for Hazardous Waste Operations and Emergency Response, EPA ICR #1426.03. This ICR requests renewal of currently approved collection (OMB #2050–0105).

Abstract: Section 126(f) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) required EPA to set worker protection standards for State and local employees engaged in hazardous waste operations and emergency response in 27 States that do not have Occupational Safety and Health Administration (OSHA)-approved State plans. The EPA coverage, required to be identical to the OSHA standards, extended to three categories of employees: those in clean-ups at uncontrolled hazardous waste sites, including corrective actions at Treatment, Storage and Disposal (TSD) facilities regulated under the Resource Conservation and Recovery Act (RCRA); employees working at routine hazardous waste operations at RCRA TSD facilities; and employees involved in emergency response operations without regard to location.

This ICR renews the existing recordkeeping collection for ongoing activities including monitoring at uncontrolled hazardous waste sites, maintaining records of employee refresher training and medical exams, and reviewing emergency response plans.

Burden Statement: The annual recordkeeping burden for this collection is estimated to average 10.64 hours per site or event.

Estimated No. of Respondents: 100 RCRA regulated TSD facilities or uncontrolled hazardous waste sites; 23,900 State and local police departments, fire departments or hazardous materials response teams.

Estimated Total Annual Burden on Respondents: 255,427 hours.

Frequency of Collection: continuous maintenance of records.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460, and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

Dated June 25, 1992.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 92–15429 Filed 6–30–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4149–2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before July 31, 1992. For further information, or to obtain a copy of this ICR, contact: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standards (NSPS) for Asphalt Processing and Asphalt Roofing Manufacturers (Subpart UU)—Information Requirements (EPA ICR #661.04; OMB #2060–0002). This is a request for an extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Abstract: Owners or operators of asphalt processing and asphalt roofing plants must notify EPA or the delegated State regulatory authority of construction, modification, startup, shutdown, malfunction, and the date and results of the initial performance test. Owners or operators of asphalt processing and asphalt roofing plants must install a continuous monitoring system (CMS) to monitor and record the temperature in specified pollution control devices, and must notify EPA or the delegated authority of the date of demonstration of the CMS. Records of temperature measurements must be kept, but no excess emissions reports are required. The notifications and reports enable EPA or the delegated authority to determine that best demonstrated technology is installed and properly operated and maintained, and to schedule inspections.

The standards currently apply to 37 sources, and are expected to apply to two new or modified sources per year over the next three years. Particulate matter is the pollutant regulated under these standards.

Burden Statement: The public reporting burden for this collection of information is estimated to average 102 hours per response for reporting, and 62.5 hours per recordkeeper annually. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed and review the collection of information.

Respondents: Owners or operators of asphalt processing and asphalt roofing plants which commenced construction or modification after November 18, 1980.

Estimated No. of Respondents: 40 recordkeepers, 2 reporters

Estimated No. of Responses per Respondent: One

Estimated Total Annual Burden on Respondents: 2,704 hours

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.

and

Chris Wolz, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

June 25, 1992.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 92–15428 Filed 6–30–92; 8:45 am]

BILLING CODE 6560–50–M

[OPP-50744; FRL-4073-5]

Receipt of a Notification to Conduct Small-Scale Field Testing of a Nonindigenous Strain of a Microbial Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of a notification of intent from Novo Nordisk Bioindustrials, of Danbury, Connecticut, to conduct small-scale field testing of a nonindigenous mutant strain of *Bacillus thuringiensis* (Bt). The proposed testing is to evaluate the strain's performance in the control of the beet armyworm, corn earworm, and fall armyworm on various agronomic crops. Totalling 8.4 acres, the five test sites are located in Alabama, California, Florida, Louisiana, and North Carolina.

DATES: Written comments must be received on or before July 31, 1992.

ADDRESSES: Comments, in triplicate, should bear the docket control number OPP–50744 and be submitted to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Crystal City, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phillip O. Hutton, Product Manager (PM) 18, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 213, Crystal Mall #2, 1921 Jefferson Davis Highway, Crystal City, VA, (703) 305–7690.

SUPPLEMENTARY INFORMATION: Novo Nordisk Bioindustrials, Inc., has submitted to EPA a notification of intent to conduct small-scale field testing pursuant to the EPA's Statement of Policy entitled, "Microbial Products Subject to the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxic Substances Control Act," published in the **Federal Register** of June 26, 1986 (51 FR 23313). The location and acreage by State, of the five test sites are Alabama, 0.4 acres; California, 3.6 acres; Florida, 1.2 acres; Louisiana, 0.8 acres; and North Carolina, 2.4 acres. The mutant strain, NB357M, was derived by the classical technique of altering the bacteria's environment in order to induce genetic mutation. The proposed testing is to evaluate strain NB357M for control of the beet armyworm, corn earworm, and fall armyworm on the following agronomic crops: alfalfa, cole, cotton, sugar beets, sweet corn, and tomatoes. Novo Nordisk proposes to test this strain over a three-and-one-half year period, from July 1, 1992 to December 30, 1995. Additionally, Novo Nordisk Bioindustrials, Inc., is requesting a generic exemption from notification when testing all mutant Bt strains of NB357 modified using classical rather than genetic-engineering technologies.

Dated: June 19, 1992.

Stephanie R. Irene,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–15204 Filed 6–30–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–66162; FRL 4069–7]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by September 29, 1992, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (H7502C), Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 210, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 31 pesticide products registered under Section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000100–00435	Princep 4G Granular Herbicide	2-Chloro-4,6-bis(ethylamino)-*s*-triazine
000100–00570	Aquazine Algicide	2-Chloro-4,6-bis(ethylamino)-*s*-triazine
000100–00650	Aquazine 90 WDG Algicide	2-Chloro-4,6-bis(ethylamino)-*s*-triazine
000279–00047	Kolospray	Sulfur
000279–00126	Kolodust	Sulfur
000279–00387	Wettable Sulfur Fungicide-Insecticide	Sulfur
000279–01721	Dusting Sulfur Fungicide - Insecticide	Sulfur

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
000352-00433	Dupont 90% Hexazinone Composition	3-Cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-trtiazine-2,4(1*H*,3*H*)-dione
000352-00485	Pydrin Insecticide 2.4 Emulsible Concentrate	4-Chloro-alpha-(1-methylethyl)benzeneacetic acid, cvano(3-phenoxyphenyl)methyl
000352-00487	Bladex/atrazine (2:1) 80W	2-Chloro-4-(ethylamino)-6-(isopropylamino)-*s*-triazine Cyanazine
000352-00489	Extrazine 4L Herbicide	2-Chloro-4-(ethylamino)-6-(isopropylamino)-*s*-triazine Cyanazine
000352-00501	Extrazine 90 DF Herbicide	2-Chloro-4-(ethylamino)-6-(isopropylamino)-*s*-triazine Cyanazine
000352 GA-88-0003	Dupont Lexone DF Herbicide	1,2,4-Triazin-5(4*H*)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)
000352 ID-87-0002	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 MN-82-0010	Dupont Velpar L Weed Killer	3-Cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-trtiazine-2,4(1*H*,3*H*)-dione
000352 NJ-84-0018	Vydate L Insecticide Nematicide	Oxamimidic acid, *N',N'*-dimethyl-*N*-((methylcarbamoyl)oxy)-1-thio-methyl ester
000352 VA-77-0006	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 VA-80-0030	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000464 NJ-88-0005	Dow Dursban TC Termiticide Concentrate	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate
002935 ND-78-0013	KM Grain Sorghum Harvest Aid	Sodium chlorate
010182-00074	Gramoxone Paraquat Herbicide	1,1'-Dimethyl-4,4'-bipyridinium dichloride
010182-00112	Ortho Gramoxone CL	1,1'-Dimethyl-4,4'-bipyridinium dichloride
010182-00113	Paraquat CL Concentrate	1,1'-Dimethyl-4,4'-bipyridinium dichloride
010182-00118	Topgun Herbicide	1,1'-Dimethyl-4,4'-bipyridinium dichloride 2-Chloro-4,6-bis(ethylamino)-*s*-triazine
010182-00119	Prelude Herbicide	3-(3,4-Dichlorophenyl)-1-methoxy-1-methylurea 1,1'-Dimethyl-4,4'-bipyridinium dichloride 2-Chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-4-methylphenyl)acetamid
010182-00264	Cyclone TEC Herbicide	3-(3,4-Dichlorophenyl)-1,1-dimethylurea 1,1'-Dimethyl-4,4'-bipyridinium dichloride Butyl (*R*)-2-(4-((5-(trifluoromethyl)-2-pyridinyl)oxy)phenoxy)propanoate
010182-00270	Paraquat 25C	1,1'-Dimethyl-4,4'-bipyridinium dichloride
010182 AZ-85-0005	Cymbush 3E Insecticide	Cyclopropanecarboxylic acid, 3-(2,2-dichloroethenyl)-2,2-dimethyl

Unless a request is withdrawn by the registrant within 90 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 90 day period. The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000100	Ciba-Geigy Corp., Box 18300, Greensboro, NC 27419.
000279	FMC Corp., ACG Speciality Products, 1735 Market Street, Philadelphia, PA 19103.
000352	E.I. Du Pont Denemours & Co., Inc., Agricultural Products BMP 37-6155, Box 80038, Wilmington, DE 19880.
000464	The Dow Chemical Co., Reg. Compliance / Health & Environmental, 1803 Building, Midland, MI 48674.
002935	Wilbur Ellis Co., 191 W Shaw Ave, Fresno, CA 93704.
010182	ICI Americas Inc., Agricultural Products, New Murphy Rd. & Concord Pike, Wilmington, DE 19897.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before September 29, 1992. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a

registrant to sell or distribute existing stocks for 1-year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in Federal Register No. 123, Vol. 56, dated June 26, 1991. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

Dated: June 23, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92–15444 Filed 6–30–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30334; FRL–4059–5]

Roussel Bio Corp.; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register the pesticide product K-Othrine SC 5.0, an insecticide containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by July 31, 1992.

ADDRESSES: By mail submit comments identified by the document control number [OPP–30334] and the file symbol (432–TAG) to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Attention PM 13, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: PM 13, George LaRocca, Registration Division (H–7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–305–6100).

SUPPLEMENTARY INFORMATION: EPA received an application from Roussel Bio Corporation, 170 Beaver Brook Road, Lincoln Park, NJ 07035, to register the pesticide product K-Othrine SC 5.0, (File Symbol 432–TAG) containing the active ingredient deltamethrin (s)-alpha-cyano-3-phenoxybenzyl-(1R,3R)-3-(2-2-dibromovinyl)-2,2-dimethyl-cyclopropanecarboxylate at 4.75 percent; an ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of FIFRA. The product is classified for general use to control major nuisance pests in and around residential, industrial, and institutional structures and their immediate surroundings. Notice of receipt of the application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the Federal Register. The procedure for requesting data will be given in the Federal Register if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division (FOD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the FOD office (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: June 19, 1992.

Stephanie R. Irene,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–15446 Filed 6–30–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30330; FRL–4048–7]

Certain Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by July 31, 1992.

ADDRESSES: By mail submit comments identified by the document control number [OPP–30330] and the registration/file number to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Attention PM 13, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: rm. 1128, Registration Division (H7505C), Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record.

Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: PM 13, George LaRocca, rm. 202, CM #2, (703–305–6100).

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 10308–RE. Applicant: Sumitomo Chemical America, Ltd., 5–33 Kitahama, 4–Chome, Chuo-Ku Osaka, Japan. Product name: ETOC Technical Grade. Insecticide. Active ingredient: (RS)-2-Methyl-4-oxo-3-(2-propynyl) cyclopent-2-enyl (1RS)-*cis*, *trans*-chrysanthemate at 93 percent. Proposed classification/Use: General. For formulating use only. (PM 13)

2. File Symbol: 1021–RANR. Applicant: McLaughlin Gormley King Company, 8810 10th Avenue North, Minneapolis, MN 55427–4372. Product name: Evercide Residual Ant and Roach Spray 2543. Insecticide. Active ingredients: (s)-2-Methyl-4-oxo-3-(2-propynyl)cyclopent-2-enyl-(1R)-*cis*, *trans*-chrysanthemate, (S)-cyano(3-phenoxyphenyl)methyl-(S)-4-chloro-alpha-(1-methylethyl)benzeneacetate, and *N*-octyl bicycloheptene dicarboximide at 0.03, 0.05, and 0.25 percent respectively. Proposed classification/Use: General. For indoor pest control. (PM 13)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division (PRPRB) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PRPRB office (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: June 19, 1992.

Stephanie R. Irene,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–15445 Filed 6–30–92; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4148–1]

Superfund Program; Early De Minimis Waste Contributor Settlements

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Agency is publishing today its "Methodology for Early *De Minimis* Waste Contributor Settlements under CERCLA section 122(g)(1)(A)," in order to inform the public on this important aspect of the Superfund enforcement program. This document provides guidance to EPA's Regions for consideration of settlements with minor waste contributors (*de minimis* parties) early in the response process, and provides a methodology to facilitate such settlements. The Agency believes this guidance will provide greater opportunities for *de minimis* settlements and reduce transactions costs to all parties.

DATES: This guidance is effective immediately.

FOR FURTHER INFORMATION CONTACT: Gary Worthman, U.S. Environmental Protection Agency, Office of Waste Programs Enforcement, OS–510, 401 M Street SW., Washington, DC 20460, (202) 260–5646, or Ken Patterson, U.S. Environmental Protection Agency, Office of Enforcement, LE–134S, 401 M Street SW., Washington, DC 20460, (202) 260–3091.

SUPPLEMENTARY INFORMATION: Under section 122(g)(1)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA or Superfund), EPA is authorized to enter into *de minimis* settlements when they are practicable and in the public interest. A person may qualify for a *de minimis* settlement if the hazardous substances contributed by that party are minimal in amount and toxicity, relative to the contributions of other parties. *De minimis* settlements can only involve a minor portion of the overall response costs at a Superfund site.

The purpose of this guidance is to identify a methodology whereby *de minimis* parties can resolve their liability early in the response process, without the need for extensive negotiation. EPA is aware that this guidance may be of great interest to persons who contributed a small quantity of hazardous substances to a Superfund site, since such parties are often quite interested in resolving their liability concerns as early in the response process as possible. Therefore, EPA is publishing this guidance to provide wide public distribution of information on this aspect of the Superfund enforcement program.

The guidance follows:

OSWER Directive #9834.7–1C

June 2, 1992.

Memorandum

Subject: Methodology for Early *De Minimis* Waste Contributor Settlements under CERCLA section 122(g)(1)(A).

From: Bruce M. Diamond, Director, Office of Waste Programs Enforcement. William A. White, Enforcement Counsel for Superfund, Office of Enforcement.

To: Waste Management Division Directors, Regions I–X, Regional Counsel, Regions I–X.

This memorandum transmits to you the Agency's "Methodology for Early *De Minimis* Waste Contributor Settlements under CERCLA section 122(g)(1)(A)." This guidance is a supplement to the "Methodologies for Implementation of CERCLA section 122(g)(1)(A) *De Minimis* Waste Contributor Settlements," OSWER Directive #9834.7–1B (December 20, 1989).

This guidance sets forth procedures for identifying early *de minimis* candidate sites under section 122(g)(1)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or Superfund), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA). The guidance also provides practical assistance in developing early *de minimis* settlement proposals and agreements.

This guidance reflects input from the Regions, Headquarters and the Department of Justice. We thank you for your assistance.

Attachment

cc: Superfund Branch Chiefs, Waste Management Division, Regions I–X.
Superfund Branch Chiefs, Office of Regional Counsel, Regions I–X.

Methodology for Early De Minimis Waste Contributor Settlements Under CERCLA Section 122(g)(1)(A)

Table of Contents

I. Introduction

This guidance sets forth procedures for identifying sites which are candidates for potential *de minimis* settlements early in the response process (for example, prior to the signature of a Record of Decision), and provides a methodology for developing such settlements.

This guidance supplements the "Methodologies for Implementation of CERCLA section 122(g)(1)(A) *De Minimis* Waste Contributor Settlements," OSWER Directive #9834.7–1B (12/29/89).[1]

A. Purpose and Scope

The purpose of this guidance is to identify a methodology whereby Regions may provide PRPs who are minor contributors of hazardous substances at a CERCLA site ("*de minimis* parties") the opportunity to resolve their CERCLA liability as completely as possible early in the response process, without the need for extensive negotiation. This guidance primarily addresses potential *de minimis* settlements prior to the signature of a Record of Decision (ROD), although the Regions may use the methods described in this guidance to facilitate *de minimis* settlements at any point in the response process.

This guidance encourages Regions to consider *de minimis* settlements with eligible potentially responsible parties (PRPs) as early in the response process as possible. To do so, Regions should compile waste contribution information for individual PRPs as soon as it is available, and identify response costs for settlement purposes. The guidance authorizes use of cost information from other sites to assist in developing the future response cost component of the settlement. The guidance also provides criteria for evaluating when there is enough site information to pursue an early *de minimis* settlement. In addition, the guidance outlines streamlined settlement procedures to reduce transaction costs.

B. Background

Under section 122(g) of CERCLA, the Agency may enter into *de minimis* settlements whenever practicable and in the public interest. There are two groups of parties which are eligible for these settlements: *De minimis* waste contributors and *de minimis* landowners. This guidance addresses only *de minimis* waste contributors.[2]

Early *de minimis* settlements allow persons who contributed minor amounts of hazardous substances to a site, both in terms of volume and toxicity, to resolve their liability early in the response process. Early *de minimis* settlements also promote efficient case management at multi-generator sites and reduce the number of parties with which to negotiate the performance of future response actions (e.g., remedial design/remedial action (RD/RA)). This reduces transaction costs, provides the Agency with reimbursement of past costs, and may provide funds for future site cleanup. Collecting such funds early in the response process should benefit the Agency and all waste contributors (both *de minimis* and non-*de minimis* parties).

II. Identification and Notification to Headquarters that a Site is a Candidate for an Early De Minimis Settlement [3]

A Region should assess whether there is sufficient information to determine that a site is a candidate for an early *de minimis* settlement. This threshold is met when the minimum level of information is present to assess individual PRP waste contributions and identify response costs. Once the threshold is met, a Region should notify Headquarters that the site is an early *de minimis* candidate.

A. PRP Waste Contributor Threshold

The waste contribution threshold is met when the Region identifies the individual hazardous substance contributions of the PRPs. This threshold can be met by the development or acceptance of a "waste-in" list or volumetric ranking of PRPs. For purposes of this guidance, this threshold is met regardless of who performs the waste-in list or volumetric ranking of PRPs (EPA, other federal or state agencies, or PRPs).

1. Waste-in Information

To determine individual PRP contributions of hazardous substances sent to a site, a Region performs a PRP Search.[4] Prior to and during this process, waste-in information (i.e., information on the type and quantity of hazardous substances sent to a site) is acquired. This information is obtained through different methods, including site visits, examination of records from prior state or federal enforcement actions, or through information gathering authorities (e.g., information request letters, interviews, or subpoenas).[5] If

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[1] *See also* "Interim Guidance on Settlements with *De Minimis* Waste Contributors under section 122(g) of SARA," OSWER Directive #9834.7 (6/19/87) and "Interim Model CERCLA section 122(g)(4) *De Minimis* Waste Contributor Consent Decree and Administrative Order on Consent," OSWER Directive #9834.7–1A (10/19/87).

[2] The Agency addresses *de minimis* landowners under another Agency guidance. See "Guidance on Landowner Liability under section 107(a)(1) of CERCLA, *De Minimis* Settlements under section 122(g)(1)(B) of CERCLA, and Settlements with Prospective Purchasers of Contaminated Property," OSWER Directive #9835.9 (6/6/89).

[3] Identification of a site as an early *de minimis* candidate does not guarantee that a *de minimis* settlement will occur at that site. However, the prospects for settlement should increase since the baseline information necessary for a *de minimis* settlement will be present.

[4] *See* "Potentially Responsible Party Search," OSWER Directive #9834.3–1A (8/27/87); "PRP Search Supplemental Guidance for Sites in the Superfund Remedial Program," OSWER Directive #9834.3–2a (6/29/89).

[5] There is no specific point during the PRP Search process when waste-in information is certain to

Continued

there has been prior governmental action at the site such as enforcement actions, permits or inspections, information may be available shortly after the PRP Search commences. If the site was a landfill or a recycling, processing or disposal facility, information such as manifests, waste tickets, log books, billing records or canceled checks may be available. If available, this information must be organized and checked for accuracy before it can be used to negotiate a settlement. If information request letters are the primary means to gather waste-contributor information, waste-in information normally will not be available until later in the PRP Search process.

When waste-in information is available, Regions should make reasonable efforts to compile and verify the data (e.g., through information request letters) as soon as possible.[6] Processing the waste-in information as soon as it is available should facilitate consideration of a *de minimis* settlement much earlier in the response process.

2. Waste-in Lists and Volumetric Rankings of PRPs

When a Region gathers and verifies sufficient waste-in information, it should prepare a waste-in list and volumetric ranking of PRPs. A waste-in list provides the volume and nature of hazardous substances contributed by each PRP identified at a facility. A volumetric ranking of PRPs is a ranking of PRPs on the waste-in list in descending order by the total volume of hazardous substances they contributed to the facility. The Regions are encouraged to perform these activities because they may further the statutory objectives regarding information release under section 122(e)(1) of CERCLA, and often increase the opportunities for settlement.[7]

As soon as practicable after a verified waste-in list and volumetric ranking of PRPs is available, a Region should provide the information to all identified PRPs for review and comment. This information can be released informally under section 122(e)(1) of CERCLA, with general or special notice letters to PRPs, at PRP meetings, or through other appropriate means. Regions may modify the waste-in list or volumetric ranking based on the comments received concerning individual PRP hazardous substance contributions.

Regions can also accept waste-in lists and volumetric rankings developed by other interested parties (e.g., individual PRPs, PRP steering committees, states, or other federal agencies). Before using information from such documents, they should be evaluated for consistency with the qualitative standards articulated in EPA guidance. Regions should review conversion factors (which establish one form of measurement) and compilation assumptions, to ensure that waste-in lists and volumetric rankings prepared by other parties are adequately documented and not biased against certain classes or types of PRPs. If a PRP database is used, the PRPs must be willing to cooperate in disseminating that information to all PRPs.

B. Response Cost Threshold

The response cost threshold is met when a Region acquires sufficient information to identify past and future response costs for settlement.[8] To establish past costs, a Region will commonly rely on existing documentation.[9] To identify future response costs, it is necessary to estimate these costs, since future response actions (e.g., remedial design/remedial action, operation and maintenance, and oversight costs) are commonly not identified at the time of the early *de minimis* settlement. The future response cost estimate does not need to be a precise figure; what is necessary is a reasonable calculation of the potential future response costs for purposes of settlement only.

To reach the future response cost threshold, a Region should generally have two pieces of related information:

(1) Sufficient site contaminant information to identify possible future response activities; and

(2) Knowledge of other sites with similar site characteristics where remedy cost information is available.

Site contaminant information provides baseline data about the potential *de minimis* settlement site. This information, used in conjunction with cost information from other similar sites, provides a means to develop future cost estimate. This is important because detailed site-specific cost information is commonly unavailable very early in the response process.

Where the waste contribution threshold is met at a point later in the response process (e.g., during the feasibility study) site-specific information alone may be sufficient to reach the response cost threshold. In that situation, cost information is more likely to be available to estimate future response costs for the potential *de minimis* settlement site and it is not necessary to evaluate cost information from other sites to reach the response cost threshold.

A Region does not have to actually estimate the future response costs before a site becomes a candidate site; actual cost estimates are only necessary when negotiating the early *de minimis* settlement. However, the Region should have the necessary information to make that estimate before the threshold is met.

1. Site Contaminant Information

Site contaminant information may be available from present or past sampling efforts, previous response actions, or records of past site operational history (including PRP waste contributions). This information assists in identifying the nature of contaminants, contaminated media, and approximate volume of contamination at the site. Regions can then identify, for settlement purposes, the possible future response actions which may be necessary at the site.

Significant site sampling data is typically available prior to the signature of a Record of Decision (ROD). A Region will often conduct site visits and take samples (soil and groundwater) to identify contaminants and contaminant pathways. If there is a remedial investigation/feasibility study (RI/FS) being performed at the site, additional site data is often collected.

Another factor to consider is whether there have been previous removal or remedial (operable units) actions at the site. Removal actions often include activities such as the removal and disposal of materials or stabilizing the site to prevent further contamination. These efforts may help quantify the

become available. Waste-in information may never be available at certain sites (e.g., abandoned facilities with no facility records or groundwater-contaminated facilities with no apparent contamination source). In such cases, *de minimis* settlements are probably not feasible.

[6] The Office of Waste Programs Enforcement is considering adjustments to the PRP Search process to encourage Regions to assemble waste-in information as early in the PRP Search process as possible.

[7] *See* "Guidance on Preparing and Releasing Waste-in Lists and Volumetric Rankings to PRPs Under CERCLA," OSWER Directive #9835.16 (2/22/91).

[8] Most *de minimis* settlements address the liability of PRPs for both past and future response costs under sections 106 and 107 of CERCLA. A Region could entertain offers to settle for only past costs. However, under that circumstance PRPs would not receive a covenant not to sue for future costs. *See* Section IV.D.1. of this guidance for further discussion of covenants not to sue. Settlements for only past costs may be more appropriately resolved under the settlement authority in section 122(h) of CERCLA.

[9] *See* "Procedures for Documenting Costs for CERCLA section 107 Actions," OSWER Directive #9832.0-1a (1/30/85).

volume of site contamination. Estimating future response costs for an early *de minimis* settlement may also be easier at a site where there was a prior remedial action and the only future response action to be determined is, for example, the appropriate ground water remedy. It could be easier to estimate costs for one contaminated medium rather than multiple contaminated media (e.g., soil, surface and groundwater). There may also be situations where there are only a limited number of possible response actions to remedy the site contamination; at such sites, estimating future response costs may be easier than at a site with a wide range of possible remedy options.

If operational history or process engineering information is available, it may be possible to ascertain the likely hazardous substances received, stored or disposed of at the site, possible pathways of contamination, and a rough volume of hazardous substances currently at the site. If a state or local authority undertook enforcement actions, additional site contaminant information may be available. Knowledge of PRP waste-in information may also help to identify the type and volume of hazardous substances brought to the site. This information can also serve to substantiate the findings concerning process engineering and site sampling data at the site.

2. Similar Site Characteristics

Regions should consider another factor in identifying whether the response cost threshold is met: Similarity between the characteristics of the site where the early *de minimis* settlement may occur and those of other sites where a remedy has been chosen or implemented. Similar site characteristics include similar site type (e.g., landfill or battery recycling facility), contaminated media, site location, and nature of contamination present at the site.

Information from other sites provides a basis from which to estimate possible response costs at the early *de minimis* settlement site, because actual cost estimates or actual cost figures will likely be available at these other sites from the ROD or other cost documents. At sites where the response action is under construction or where construction is complete, actual cost data may be available.

The Office of Waste Programs Enforcement is collecting data to assist Regions in estimating future response costs for settlement by using information from sites with similar characteristics.[10] In addition, the Office of Emergency and Remedial Response is exploring whether sufficient data exists to develop standardized or presumptive remedies for "generic" site types. This effort could further aid efforts to increase the availability of future response cost data earlier in the response process.

At sites where the agency has never chosen a remedy addressing similar contaminants and contaminated media, it may be difficult to identify potential remedy costs for settlement without engaging in a site-specific inquiry. If such site-specific inquiries could be difficult, such sites may not be good candidate sites for an early *de minimis* settlement.

C. Notification to Headquarters that a Site Is a Candidate Site

Once the thresholds are met for both waste-in and response cost information, a Region should notify Headquarters, in writing, that the site is a candidate for an early *de minimis* settlement. The notification serves to provide Headquarters with advance notice that a Region is considering an early *de minimis* settlement. Notification also helps to assure that Headquarters resources are available to facilitate the settlement.

This notification requirement is different from the consultation requirement enunciated in EPA Delegation 14–14–E (September 13, 1987, and modified by memorandum June 17, 1988). Under that delegation, the Regional Administrator must consult with the Assistant Administrators for the Office of Solid Waste and Emergency Response and Office of Enforcement, prior to entering into *de minimis* settlements. Regions should consider early Headquarters involvement to assist with the settlement (e.g., help develop estimates of future response costs) and facilitate subsequent formal review of the proposed settlement.[11]

This notification should be made to the Branch Chief, Compliance Branch, CERCLA Enforcement Division, Office of Waste Programs Enforcement and to the Enforcement Counsel for Superfund, Office of Enforcement. The notification can be made as soon as the Region identifies the site as a candidate or on a more regular basis (e.g., quarterly).[12]

III. Early *De Minimis* Settlement Criteria

A. Allocation of Responsibility

A Region must determine that a person qualifies for *de minimis* status under section 122(g)(1)(A) of CERCLA before pursuing a *de minimis* settlement. A *de minimis* waste contributor is a person who contributed hazardous substances in an amount and of such toxicity as to be minimal in comparison to other hazardous substances at the facility. *De minimis* settlements may only address a minor portion of the response costs at a site for each settlor.

To establish which parties qualify for an early *de minimis* settlement, it is often necessary to develop individual allocations of responsibility among *all* the PRPs. For an early *de minimis* settlement this should generally be considered an early or draft allocation of responsibility.[13] The Region should use this allocation to determine the amount a *de minimis* party must pay in the proposed settlement. The waste-in list and volumetric ranking of PRPs is generally used as the basis for allocating responsibility among generators and transporters. An allocation of responsibility may also be assigned to the owners and operators of the facility. To the extent such information is available, factors such as viability of PRPs, presence of bankrupt or defunct entities, or unallocable shares (i.e., orphan shares), should be considered during the allocation process.

After completing the allocation, a Region should consider sending the

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[10] *See* Section III.C. of this guidance for an expanded discussion on the use of cost information from other sites to estimate future response costs.

[11] At sites where the total response costs exceed $500,000.00, the Agency may enter into the *de minimis* settlement only after obtaining prior written approval from the U.S. Department of Justice (DOJ). *See* section 122(g)(4) of CERCLA. To facilitate DOJ review of a proposed settlement, a Region should notify DOJ of the Region's intent to enter into negotiations for an early *de minimis* settlement prior to sending the draft settlement documents to the *de minimis* parties. Regions should provide DOJ with the draft settlement documents and information that has been or will be made available to the *de minimis* PRPs, as well as other documents which may facilitate DOJ approval of the *de minimis* settlement. Where a federal PRP is identified as a potential *de minimis* settlor this should be specifically noted. Regions should also notify, in writing, the Federal Natural Resource Trustees of the potential *de minimis* settlement as early as possible, thereby offering them the opportunity to participate in the *de minimis* settlement in a timely manner. If the Federal Natural Resource Trustees decide to participate, a Region should ensure that all relevant information is made available to them.

[12] The Office of Waste Programs Enforcement is exploring whether this notification requirement can be performed through the CERCLIS reporting system.

[13] Regions may want to consult Agency guidance for useful information concerning developing the allocation, although it is not necessary in an early *de minimis* settlement to create a non-binding allocation of responsibility (NBAR). *See* "Interim Guidelines for Preparing Nonbinding Preliminary Allocations of Responsibility," OSWER Directive #9839.1 (5/29/87).

allocation document to all PRPs for review and comment. PRPs should be able to comment on factual assumptions made with respect to individual shares within a reasonable time period specified by the Region.

B. Identification of PRPs Eligible for the Early De Minimis *Settlement*

After making allocation decisions for *de minimis* settlement purposes only, a Region should determine the appropriate cutoff for eligible *de minimis* waste contributors. There is no specific statutory criterion for identifying the appropriate cutoff other than the requirement that the contribution of each *de minimis* party must be minimal relative to other hazardous substance contributors.

When a Region considers a *de minimis* settlement early in the response process, PRP contributor information, both for *de minimis* and non-*de minimis* parties, may not be completely available. Where this means that the precise cutoff is in some doubt, a Region should establish the cutoff at a level which allows only those who clearly qualify as *de minimis* (i.e., the smallest waste contributors) the opportunity to settle at this time. This limits the risk of settling with parties who are not truly *de minimis*. Persons who are not eligible for an early *de minimis* settlement may be eligible for future *de minimis* settlements with the government at a later time when there is more complete information.

Once a Region identifies the appropriate cutoff for the early *de minimis* settlement, both the *de minimis* and non-*de minimis* parties should be informed of this determination. A Region may also choose to make available the list of parties eligible for the early *de minimis* settlement and the basis for the cutoff.[14]

C. Estimating Future Response Costs for Settlement

As discussed above, early *de minimis* settlements generally address the liability of PRPs for both past and future response costs under sections 106 and 107 of CERCLA. When available at the time of settlement, a Region should use itemized cost summaries as the basis for past costs plus applicable interest. If an action is ongoing at the time of settlement (e.g., an RI/FS), a Region should use both itemized cost summaries for past work performed and an estimate of remaining costs. A Region may use RI/FS cost figures from the State Superfund Contract or Cooperative Agreement with a state as the basis for estimating these costs.

A Region should use available site and cost information to develop a best estimate of the future response costs for the *de minimis* settlement. This estimate should be based on reasonable judgment; a precise figure is not necessary since the Region is not selecting a remedy. This guidance does not establish a set procedure to estimate future response costs for settlement. To assist the Regions, two possible methods for developing future response cost estimates are identified below. Both of these procedures suggest use of available cost information from other sites to assist in estimating costs for the early *de minimis* settlement. Use of information from other sites should help facilitate development of the future cost estimate and reduce the transaction costs in developing an estimate. These procedures are presented as options only, and Regions may choose other approaches for estimating future response costs.[15] Regardless of the option employed, the methodology used should be supported by documentation.

1. Use of Response Cost Information From Other Sites

This approach combines use of site-specific information from the proposed *de minimis* settlement site, together with a review of cost documents from other sites with similar site characteristics where a remedy has been selected or implemented.

Under this approach a Region would first assemble site-specific contaminant information (i.e., nature of contaminants, contaminated media, and volume of contaminants). Then, the Region would review post-1986 RODs for selection of remedy at other sites with similar characteristics.[16] If there is more current information concerning these RODs (e.g., the remedy selected has been implemented or is at the remedial action stage in the response process), the Regional should use that information instead of the cost estimate in a ROD.[17]

The next step is to extract the relevant cost information from similar sites. In this way the Agency could establish a range or average of future costs from the prior remedies selected or implemented.

After establishing the range or average of future response costs, the Region may adjust those figures based on known site-specific factors to establish the future response cost estimate for the *de minimis* settlement. To the extent such site-specific information is not available, a Region may use the information from similar sites alone to establish the future remedy cost estimate for the early *de minimis* settlement.

2. Establishing Unit Costs for Remedial Technologies

Under this methodology, a Region could develop unit costs for remedial technologies at sites with similar site characteristics as the basis for estimating the site-specific future response action costs.

This approach requires development of a list of remedial technologies from RODs chosen or implemented for sites with similar characteristics (e.g., landfills, lead battery recycling facilities) and contaminated media. Unit costs could be then developed by matching the extent of contamination at a site with a ROD, with the estimated remedial cost for addressing that contaminated medium.[18] For remedies under construction, the remedial action documents commonly establish unit cost figures.

The Region would then establish a list of technologies relevant to that contaminated medium. From this list, an average unit cost for a particular contaminated medium could be developed. This average unit cost figure could then be multiplied by the amount (or extent) of contamination at the early *de minimis* settlement site, to establish an estimate of the future response costs for a particular contaminated medium.

A Region may also consider site-specific factors from the early *de minimis* site in developing the average unit cost figure. If, at the time of the proposed settlement site-specific studies (e.g., the feasibility study) indicate that one or more remedial alternatives are not viable remedial options for the early *de minimis* site, then the unit costs for those remedial technologies do not have to be factored into the average unit cost figure. In addition, if one or more

[14] The procedure used to give notice to PRPs of these determinations will be site-specific. A Region could disseminate this information in a number of ways, including use of the procedures in section 122(e)(1), at a meeting with PRPs, by mail to all identified PRPs or through distribution of a settlement offer.

[15] A Region can rely on cost information from the early *de minimis* site as the sole basis for estimating future costs where sufficient site-specific cost information is available at the time the Region contemplates the early *de minimis* settlement.

[16] The Superfund Amendments Reauthorization Act of 1986 (SARA) added section 121 of CERCLA, setting forth the criteria for all future remedial response actions.

[17] As discussed in section II.B.2. of this guidance, the Office of Waste Programs Enforcement is collecting data to facilitate use of relevant cost data from RODs or implemented remedies.

[18] The Office of Waste Programs Enforcement is collecting data to assist in developing unit costs for remedial technologies.

remedial technologies appear to be more likely to be selected than others at the early *de minimis* site, a Region may factor in the probability of a particular remedy being chosen into the average unit cost estimate.

IV. Early De Minimis Settlement Methodology

A. Formation of the Early De Minimis Group

Once a Region determines which parties are eligible for an early *de minimis* settlement, it may assist in the formation of an early *de minimis* group (e.g., send out letters, hold meetings, publish notice in a local newspaper), if to do so would facilitate negotiations.[19] If the PRPs form a *de minimis* group, the Region should encourage them to take on administrative functions (e.g., dissemination of information and review of proposed settlement documents). Eligible parties should be advised that the terms of an early *de minimis* settlement offer will likely not be available in the future, although there may be later chances to settle, but on less favorable terms.

B. Negotiations

The main objective of the early *de minimis* settlement methodology is to reduce transaction costs, conserve government resources, and settle with the eligible parties as expeditiously as possible. Regions should adopt procedures necessary to fulfill these objectives.

Set forth below is one suggested method to facilitate the settlement:

- Send a draft settlement document to parties identified as *de minimis*, take comments over a specified period of time, and send the final settlement document (incorporating appropriate comments) to all *de minimis* PRPs for signature.[20] Comment or negotiation over boilerplate provisions should be actively discouraged.
- Once the final settlement document is sent, the *de minimis* PRPs have a specified period (e.g., 30 days) to sign and return the document.
- When the Region receives executed signature pages, it should repackage the settlements into one *de minimis* settlement package for formal review by regional management, Headquarters, the Department of Justice and for public comment.

[19] Assisting in the formation of the *de minimis* group need not wait until the estimate of future response costs for settlement is established.

[20] It may be appropriate at a given site to send a copy of the draft settlement document to non-*de minimis* parties for informational purposes or to seek comment.

C. Early De Minimis Settlement Document

Under section 122(g)(1) of CERCLA, the Agency may settle the liability of *de minimis* parties either through an administrative order on consent (AOC) or a judicial consent decree. Regions should use the model settlement documents (AOC and judicial consent decree) as the basis for the proposed early *de minimis* settlement.[21]

An AOC should be the preferred option for early *de minimis* settlements. A *de minimis* settlement under an AOC can usually be issued more quickly and with fewer resources than a settlement by judicial consent decree, while providing similar legal effect. Early *de minimis* settlements often address only the liability of the *de minimis* parties; non-*de minimis* PRPs will not usually be a party to this agreement. However, a Region may choose to embody the early *de minimis* agreement in a judicial consent decree where, for example, there is current litigation involving the Agency and *de minimis* parties or where non-*de minimis* parties agree to perform the RD/RA at the time of an early *de minimis* settlement.[22]

D. Early De Minimis Settlement Provisions

In any *de minimis* settlement there are several provisions in the settlement document which affect the finality of the settlement offered. They include covenants not to sue, reservation of rights, premiums, and contribution protection. Another important facet of the settlement is the distribution of money received from the settling *de minimis* PRPs. These provisions are generally discussed in earlier Agency guidance.[23] Set forth below is a more detailed discussion of these provisions as they relate to an early *de minimis* settlement.

[21] *See* "Interim Model CERCLA section 122(g)(4) *De Minimis* Waste Contributor Consent Decree and Administrative Order on Consent," OSWER Directive #9834.7-1A (10/19/87). The Agency is currently reviewing and updating the model documents.

[22] This may occur where the non-*de minimis* parties agree to perform the RD/RA for an operable unit with a ROD (e.g., source control remedy), but the *de minimis* component of the settlement addresses the liability for the source control remedy as well as other future response actions not yet chosen (e.g., groundwater remedy).

[23] *See* "Interim Guidance on Settlements with *De Minimis* Waste Contributors under section 122(g) of SARA," OSWER Directive #9834.7 (6/19/87) and "Methodologies for the Implementation of CERCLA section 122(g)(1)(A) *De Minimis* Waste Contributor Settlements," OSWER Directive #9834.7-1B (12/20/89).

1. Covenants Not to Sue

Section 122(g)(2) of CERCLA provides the Agency with the authority to provide covenants not to sue in a *de minimis* settlement, to address the liability of parties under sections 106 and 107 of CERCLA. These covenants indicate that the Agency will not pursue the *de minimis* parties in the future for matters addressed in the settlement. If appropriate, a Region may provide the settling PRPs with a covenant not to sue which is immediately effective once the terms of the agreement are met (e.g., payment of money). Thus, the covenant can be effective before the future response work at the site is ever implemented.

Consistent with Agency guidance, a Region should always include a limited re-opener to the covenant not to sue in the early *de minimis* settlement for false, incomplete, inaccurate, or new information which indicates that the PRP's contribution to the site was higher than the allocable share established for the settlement. This re-opener is often triggered where such information materially affects the terms of the settlement (information which indicates the party is no longer within the *de minimis* cutoff established for the settlement or information which substantially affects the payment made by that party).[24] If triggered, the re-opener should only affect that party's settlement with the Agency and not have an effect on the allocations of other settling *de minimis* parties.

Another re-opener sometimes included in *de minimis* settlements relates to potential cost overruns associated with the future response action.[25] This re-opener addresses some of the risk of settling with *de minimis* parties before completion of the future response action. Cost overrun re-openers may be triggered when the estimated future costs increase over a set percentage or set amount. Agency guidance states that this re-opener is not necessary where the premium payment established is sufficient to address the

[24] A Region may want to consider adding a penalty provision in the settlement document with regard to false information submitted by the PRP where the Agency originally relied upon that information in identifying that party as eligible for the early *de minimis* settlement. If it knowingly submitted false information, the PRP may also be subject to criminal liability.

[25] For purposes of this guidance a "cost overrun" is additional money that needs to be spent to implement the future response action selected in a ROD. The term also includes the situation where further response actions beyond that specified in a ROD are necessary to protect human health and the environment.

risks associated with possible cost overruns.[26]

A primary goal of the Agency in an early *de minimis* settlement is to provide as much finality as possible to the *de minimis* parties. This reduces transaction costs to all parties, and reduces the possibility that the Agency will have to pursue the *de minimis* parties in the future for site-related costs. To the extent possible (taking into account site-specific concerns, including uncertainties related to the future response cost estimate), therefore, Regions should offer early *de minimis* settlements which do not contain cost overrun re-openers. To offset the risk involved, the Region should increase the premium payment component of the offer.[27] The result is likely to be that the *de minimis* parties may pay more to settle, but they receive a covenant not to sue without this re-opener, and more complete contribution protection from potential future CERCLA liability at the site.

On the other hand, cost overrun re-openers can have the advantage of reducing the premium component of the offer, and can play an important role in structuring a settlement that reduces risks to both EPA and the non-*de minimis* parties. At some sites, therefore, a cost overrun re-opener may be an important aspect of the structure of the over-all resolution of the case, and may also be viewed as desirable by some or all of the *de minimis* parties.

To facilitate settlements with as many eligible *de minimis* parties as possible, a Region may wish to offer a choice of a no cost overrun re-opener/higher premium or a cost overrun re-opener/lower premium in the same settlement. This provides individual *de minimis* parties with the ability to choose the appropriate settlement option, while allowing the Region to incorporate different settlement terms in one settlement agreement.

2. Reservation of Rights

A Region should commonly include a reservation of rights in all early *de minimis* settlements. Reservations of rights relate to issues for which the Region is not providing a covenant not to sue. Regions should provide reservations of rights, at a minimum, for: (1) Liability resulting from a settling party's failure to comply with the terms of the settlement (e.g., non-payment of money); (2) liability for natural resource damages (unless the Federal Natural Resource Trustees have agreed to a covenant not to sue); (3) criminal liability; (4) future disposal activities at the site; or (5) any claim or cause of action not expressly included in the covenant not to sue. Regions should also consider a reservation of rights related to potential liability under other federal statutes. A Region should reaffirm that the settlement has no affect on the Agency's ability to pursue non-settling parties.

3. Premiums

As a general matter, the risks posed to the Agency in entering into *de minimis* settlements are greater earlier in the response process. These risks arise from site-specific uncertainties with regard to completeness of PRP information, knowledge of future response costs, as well as the absence of an agreement with the non-*de minimis* PRPs for the eventual performance of the RD/RA.

To address several of these risks, the early *de minimis* settlement should include a premium payment for future response costs.[28] The premium charged should be in addition to the *de minimis* party's *pro rata* share of the site response costs. The premium should be sufficient to compensate the Agency for the risks associated with: (1) Settling at a site where the future response action has not been chosen; (2) possible cost overruns for a remedy not yet selected and; (3) potential inability to recover response costs from other sources.

For early *de minimis* settlements, the premium chosen should relate to the finality of the settlement (e.g., whether there is a covenant not to sue with cost overrun re-opener). When a Region is willing to offer or consider a settlement with a covenant not to sue without a cost overrun re-opener, the settlement should include a higher premium to address that risk.[29] This higher premium also reduces the risk of settling when waste-in information may be preliminary and information concerning financial viability of all PRPs is not complete. The higher premium in this situation also reduces the possibility that the Agency will be unable to recover response costs from other parties. Conversely, if the settlement includes a covenant not to sue with a remedy cost re-opener, a lower premium may be offered. A lower premium may also be appropriate where PRP investigatory work is complete, financially viable non-*de minimis* parties are identified, or there is an agreement with the non-*de minimis* parties to perform the RD/RA at the time of the early *de minimis* settlement.

4. Contribution Protection

Regions should indicate to PRPs the Agency's belief that a party which fully resolves its liability to the United States by paying its fair share of all past and future costs in a *de minimis* settlement should qualify for protection against contribution actions (regarding matters addressed in the settlement), to the full extent provided in sections 113(f) and 122(g)(5) of CERCLA.

5. Money Received in Settlement

Money received in an early *de minimis* settlement should generally be deposited in the invested portion of the Hazardous Substance Superfund (Trust Fund). This reimburses the government fully for past costs expended and may provide additional funds for the Trust Fund. Where appropriate, amounts in excess of past costs may be set aside into other accounts, such as a site-specific special account, a state-managed escrow account or trust fund, or deposited to an EPA-approved, but PRP-established and managed trust fund or escrow account.[30] Where excess money is set aside, a portion of that money may be available to reimburse whatever party will be performing the future response action (EPA, the state or the non-*de minimis* PRPs).

If it would facilitate the overall settlement at the site and the non-*de minimis* PRPs have been cooperative during the *de minimis* settlement process, the Region may take the funds received and apportion them between past and future response costs, without fully reimbursing the government for its past costs. Before agreeing to such an arrangement, a Region should consider its ability to recover any remaining past costs from other PRPs not a party to the early *de minimis* settlement. At a minimum, the past cost component of the *de minimis* parties overall payment should be deposited into the Trust Fund. The remainder of the payment may be then deposited into an account established for the site. This approach may provide more money for future response work at the site, while allowing the Agency to pursue non-settlors for remaining past costs.

[26] *See* Page 14 of the "Methodologies for Implementation of CERCLA section 122(g)(1)(A) *De Minimis* Waste Contributor Settlements," OSWER Directive #9834.7-1B (12/20/89).

[27] *See* Section IV.3. of this guidance for an expanded discussion of premium payments.

[28] If a Region is able to fully document the past costs, a premium payment may not be necessary for that aspect of the settlement.

[29] *See* "Guidance on Premium Payments in CERCLA Settlements," OSWER Directive #9835.6 (11/17/88).

[30] Either the *de minimis* parties or non-*de minimis* parties should set up the trust fund or escrow account for this purpose.

Apportioning costs may also result in reducing the opposition of non-*de minimis* parties to the *de minimis* settlement, since more money may be available for use in funding the eventual future response action (RD/RA)

V. Purpose and Use of this Guidance

This guidance and any internal procedures adopted for its implementation are intended exclusively as guidance for employees of the U.S. Environmental Protection Agency. This guidance does not constitute rulemaking by the Agency and may not be relied upon to create a right or a benefit, substantive or procedural, enforceable at law or in equity, by any person. The Agency may take action at variance with this guidance or its internal implementing procedures.

VI. Further Information

For further information concerning this guidance, please contact Gary Worthman in the Office of Waste Programs Enforcement at FTS or (202) 260–5646, or Ken Patterson in the Office of Enforcement at FTS or (202) 260–3091.

Dated: June 26, 1992.

Don R. Clay,

Assistant Administrator, Office of Solid Waste and Emergency Response.

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[OPPTS–44588; FRL–4074–9]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on mesityl oxide (CAS No. 141–79–7), submitted pursuant to a testing consent order under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: Under 40 CFR 790.60, all TSCA section 4 consent orders must contain a statement that results of testing conducted pursuant to these testing consent orders will be announced to the public in accordance with section 4(d).

I. Test Data Submissions

Test data for mesityl oxide were submitted by the Chemical Manufacturers Association on behalf of the test sponsors and pursuant to a consent order at 40 CFR 799.5000. They were received by EPA on June 4, 1992. The submissions describe a microbial mutagenesis in *salmonella* mammalian microsome plate incorporation assay with dosing analysis, and an *in-vivo* mammalian bone marrow micronucleus assay. Health effects testing is required by this consent order. This chemical is used primarily as an intermediate in the manufacture of MIBK. Its main end-product use is as a solvent in lacquer and lacquer thinners.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS–44588). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 12 noon, and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. NE–G004, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

Dated: June 18, 1992.

Charles M. Auer,

Director, Existing Chemical Assessment Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92–15447 Filed 6–30–92; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Approved by the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice; correction.

SUMMARY: This document corrects a notice (57 FR 27051, June 17, 1992), which referred to an incorrect FCC form number. The following is published in its entirety.

EFFECTIVE DATE: June 24, 1992.

FOR FURTHER INFORMATION CONTACT: Judy Boley, Information and Records Management Branch, (202) 632–7513.

The following information collection requirements have been approved by the Office of Management and Budget as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). For further information contact Judy Boley, Federal Communications Commission (202) 632–7513.

OMB No.: 3060–0136.

Title: Temporary Permit to Operate a General Mobile Radio Service System.

Form No.: FCC 574–T.

The approval on FCC 574–T has been extended through 4/30/95. The June 1990 edition with the previous expiration date of 4/30/92 will remain in use until updated forms are available.

OMB No.: 3060–0107.

Title: Private Radio Application for Renewal, Reinstatement and/or Notification of Change to License Information.

Form No.: FCC 405–A.

A revised application form FCC 405–A has been approved for use through 4/30/95. The current edition of the form is dated May 1992.

OMB No.: 3060–0139.

Title: Request for Antenna Height Clearance and Obstruction Marking and Lighting Specifications.

Form No.: FCC 854.

A revised request form FCC 854 has been approved for use through 4/30/95. The current edition of the form is dated May 1992. All previous editions are obsolete.

OMB No.: 3060–0318.

Title: Notification of Status of Facilities.

Form No.: FCC 489.

A revised application form FCC 489 has been approved for use through 4/30/93. The March 1991 edition with an OMB expiration date of 4/30/93 will remain in use until revised forms are available.

OMB No.: 3060–0444.

Title: 800 MHz Construction Letter.

Form No.: FCC 800–A.

A revised form letter FCC 800–A has been approved for use through 4/30/95. The April 1992 edition with an OBM expiration date of 8/31/93 will remain in use until revised forms are available.

OMB No.: 3060–0497.

Title: Mediator Survey and Party Survey Forms.

Form No.: FCC 91 and FCC 92.

New survey forms FCC 91 and FCC 92 have been approved for use through 5/31/95. The current edition of the survey forms is dated July 1992.

OMB No.: 3060–0498.

Title: Confidential Alternative Dispute Resolution Statement.

Form No.: FCC 90.

A new statement form FCC 90 has been approved for use through 5/31/95. The current edition of the form is dated July 1992.

OMB No.: 3060–0499.

Title: 470–512 MHz Eight Month Mobile Loading.

Form No.: FCC 6027–H.

The form letter FCC 6027–H has been approved for use through 4/30/95. The February 1988 edition will remain in use until revised forms are available.

Federal Communications Commission

Donna R. Searcy,

Secretary.

[FR Doc. 92–15427 Filed 6–30–92; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1898]

Petitions for Reconsideration and Clarification of Actions in Rule Making Proceedings

June 25, 1992.

Petitions for reconsideration and clarification have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452–1422. Oppositions to these petitions must be filed July 16, 1992.

See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service. (MM Docket No. 87–268) Number of Petitions Filed: 6.

Subject: Amendment of Section 73.202(b), FM Table Broadcast Stations. (Lincoln, Osage Beach, Steelville and Warsaw, Missouri) (MM Docket No. 90–66, RM Nos. 7139, 7368 & 7369) Number of Petitions Filed: 1.

Subject: Competition in the Interstate Interexchange Marketplace. (CC Docket No. 90–132) Number of Petitions Filed: 1.

Subject: Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation. (CC Docket No. 91–35) Number of Petitions Filed: 8.

Subject: Amendment of Part 90.69 of the Commission's Rules and Regulations Concerning Eligibility in the Motion Picture Service. (PR Docket No. 91–62, RM–7406) Number of Petitions Filed: 2.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–15426 Filed 6–30–92; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Crowley Caribbean Transport, Inc., et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011063–009.

Title: United States/Jamaica Discussion Agreement.

Parties:

Crowley Caribbean Transport, Inc.
Kirk Lines Ltd.
Sea-Land Service, Inc.
Zim American Israeli Shipping Co., Inc.
Calypso Container Lines
Shipping Corporation of Trinidad and Tobago, Ltd.
West Indies Shipping Corporation (WISCO)
North American Caribbean Line Ltd.
Blue Caribe Line

Synopsis: The proposed amendment will delete Zim American Israeli Shipping Co., Inc. as a party to the Agreement.

Agreement No.: 224–200678.

Title: Port Authority of New York & New Jersey/Hapag-Lloyd Terminal Agreement.

Parties:

Port Authority of New York & New Jersey ("Port") Hapag-Lloyd (America) Inc. ("Carrier")

Synopsis: The Agreement provides that the Port will pay the Carrier $20/import container and $40/export container for each container with cargo loaded or unloaded from the Carrier's vessels at the Port's marine terminals provided the container moves to or from the Port via rail carriage. The Agreement will terminate on December 31, 1992.

Agreement No.: 224–200680.

Title: Port Authority of New York & New Jersey/Nedlloyd Terminal Agreement.

Parties:

Port Authority of New York & New Jersey ("Port")
Nedlloyd Lines (USA) Corp. ("Carrier")

Synopsis: The Agreement provides that the Port will pay the Carrier $20/import container and $40/export container for each container with cargo loaded or unloaded from the Carrier's vessels at the Port's marine terminals provided the container moves to or from the Port via rail carriage. The Agreement will terminate on December 31, 1992.

Dated: June 25, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–15362 Filed 6–30–92; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

ATSDR-Community Public Health Assessment Workshop; Meeting

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the following meeting.

Name: ATSDR–Community Public Health Assessment Workshop.

Times and Dates: Registration for invited participants: 4 p.m.–8 p.m., August 12, 1992, and 7 a.m.–8 a.m., August 13, 1992. Public Meeting: 5 p.m.–7 p.m., August 12, 1992; 8 a.m.–5:15 p.m., August 13, 1992; 8 a.m.–12 noon, August 14, 1992.

Place: Hotel Inter-Continental Chicago, 505 North Michigan Avenue, Chicago, Illinois 60611.

Status: Open to the public for observation and participation, limited only by the space available. The meeting room accommodates approximately 100 people.

Matters To Be Considered: The meeting will convene a group of interested parties to discuss the ATSDR Public Health Assessment process. The ATSDR Public Health Assessment is the evaluation of data and information on the release of hazardous substances into the environment in order to assess any current or future impact on public

health, develop health advisories or other recommendations, and identify studies or actions needed to evaluate and mitigate or prevent human health effects. The group will consider such areas as the ATSDR Public Health Assessment definition and purpose, its scope and limitations, how it is initiated, the roles of ATSDR staff, ATSDR-public interaction, the steps and activities in a public health assessment, and possible follow-up health actions.

Contact Person for More Information: Chris Schmidt, Division of Health Assessment and Consultation, ATSDR (MS E32), 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/639-0605 or 0610.

Dated: June 24, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination.

[FR Doc. 92-15397 Filed 6-30-92; 8:45 am]

BILLING CODE 4160-70-M

Center for Disease Control

[Program Announcement Number 248]

State-Based Capacity Building Projects for the Prevention of Primary and Secondary Disabilities

Introduction

The Centers for Disease Control (CDC), the Nation's prevention agency, announces the availability of fiscal year (FY) 1992 funds for cooperative agreement applications for state-based capacity building projects to prevent primary and secondary disabilities. Financial assistance is being provided to develop or expand capacity of states to prevent disabilities through public health leadership, coordination of services, surveillance, technical assistance, and implementation and evaluation of community intervention programs.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of Health Promotion, Health Protection, Preventive Services, and Surveillance and Data Systems. (For ordering a copy of Health People 2000, see the section **WHERE TO OBTAIN ADDITIONAL INFORMATION.**)

Authority

This program is authorized by section 317 [42 U.S.C. 247(b)] and section 301(a) [42 U.S.C. 241(a)] of the Public Health Service Act, as amended.

Eligible Applicants

Eligible applicants are state health departments or other state agencies or departments in states that are not current recipients of awards under this program that are deemed most appropriate by the state to lead, coordinate, and conduct that state's disabilities prevention program. This eligibility includes the health departments or other official organizational authorities (agencies or instrumentalities) of the District of Columbia, the Commonwealth of Puerto Rico, and any U.S. territory or possession.

If a state agency applying for cooperative agreement funds if other than the official state health department, written concurrence of the state health department must be provided. Only one application from a state may enter the review process and be considered for an award under this program. Eligible applicants may enter into contracts and consortia agreements and understandings as necessary to meet the requirements of the program and strengthen the overall application.

Availability of Funds

It is anticipated that approximately $1,750,000 will be available for new cooperative agreement awards for state-based capacity building projects in FY 1992. Project awards are expected to be made on or about September 30, 1992 for a twelve month budget period within an established four year project period.

The CDC anticipates that state project awards for the first budget year will range from $200,000 to $260,000, but no award will exceed $260,000. Currently, 21 states are recipients of cooperative agreements for this program. These 21 states are expected to be awarded approximately $7,500,000 in noncompeting continuations. It is expected that the estimated amount of funds available through this announcement will support awards to approximately 7 additional states, increasing the state projects funded to 28 in FY 1992.

Projects funded under this Announcement should be designed to prevent two targeted groups of disabilities and their related secondary disabilities/conditions. Selected developmental disabilities, and head and spinal cord injuries.

Purpose

The purpose of these cooperative agreements is to develop state capacity to reduce the incidence and severity of primary and secondary disabilities. These awards are being made to develop and maintain state leadership and a coordination focus for the prevention of disabilities. This coordination and collaboration should include appropriate state and community agencies, advocacy organizations, schools of public health, and other academic institutions including minority institutions. Projects must provide technical assistance and increase the knowledge base necessary to design, implement, and evaluate interventions that prevent disabilities. All state-based projects should become model disability prevention programs capable of replication and transfer of technology and process to other states.

These awards will support eligible states to:

1. Establish an office of disabilities prevention and a state-based advisory body and coordinate disability-related prevention activities.
2. Develop a state strategic plan for the prevention of all disabilities.
3. Conduct surveillance for the targeted disability groups.
4. Assist communities in the planning, conduct, and evaluation of programs designed to prevent disabilities, and understand the nature and cause of disabilities.
5. Undertake studies at the state or local level that contribute to an understanding of disabilities, improved surveillance methods, and the effectiveness of interventions designed to prevent disabilities.

Targeted Disability Groups

A. *Developmental Disabilities* (DD)—States must conduct surveillance and prevention activities in one primary disability concentration area AND one secondary condition concentration area:

1. States must direct primary disability prevention activities into ONE of the following two concentration areas:

a. Fetal alcohol syndrome and other congenital alcohol disorders, including fetal alcohol effects; OR

b. Mental retardation (MR) associated with socioeconomic risk factors (e.g. poverty, disordered nurturing environments, high risk populations).

2. States must also conduct surveillance and prevention activities for secondary conditions related to one of the following three primary developmental disabilities areas; persons with:

a. Cerebral palsy; OR

b. Spina bifida; OR

c. Sickle cell anemia.

B. *Head and Spinal Cord Injuries*—Applicants must conduct both head and spinal cord injury surveillance and

prevention activities such as: presenting a plan for implementing E-coding of hospital discharge data, developing and accessing trauma databases and promoting data linkage, and establishing mechanisms such as registries to report and monitor head and spinal cord injuries.

Within this targeted disability group, applicants may also conduct surveillance on the prevention of secondary conditions related to head and spinal cord injuries. It is recognized that based on state capacity, surveillance for secondary conditions related to head and spinal cord injuries may be appropriate for implementation in later years of the project period.

The community intervention project(s) for either of the above two targeted disability groups will be developed based on the evaluation of data sources already available or developed and accessed during the first budget year.

Cooperative Activities

In conducting activities to achieve the purposes of this program, the recipient shall be responsible for activities under A., below, and CDC will be responsible for activities under B., below:

A. Recipient Activities

1. Develop an identified, highly visible state-based program for the prevention of disabilities and secondary conditions;

2. Establish and operate a state-based office of disabilities prevention, support an advisory body, establish coordination with other disabilities prevention-related agencies, develop project objectives and time frames, and provide technical assistance throughout the state;

3. Develop and implement a state strategic plan and community-specific project plans for preventive interventions;

4. Develop disabilities prevention programs in the targeted disability groups, with an emphasis on the conduct of surveillance; and

5. Promote prevention planning in communities, conduct intervention activities, and evaluate their effectiveness.

B. CDC Activities

1. Provide scientific programmatic and technical assistance in the planning, operation, and evaluation of surveillance and community projects;

2. Provide management programmatic assistance in the administrative and organizational aspects of project operations and information transfer on project activities in other states and national initiatives;

3. Support project staff by conducting training programs, conferences, and workshops to enhance skills and knowledge;

4. Provide a reference point for sharing regional and/or national data pertinent to targeted disabilities; and

5. Assist in research and in studying the effectiveness of specific prevention and intervention strategies.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria (Total 100 Points):

1. Evidence of Need and Understanding of the Problem: (15 Points)

Evaluation will be based on the applicant's description and understanding of the disabilities problem in the state as evidenced by estimates of incidence and/or prevalence, scope of disabilities and their severity, and cost associated with specific disabilities. Evaluation of this criteria will also include applicants' description of current disability prevention activities within the state. The description of disability prevention activities should address the effectiveness, available resources, demographic indicators, populations-at-risk and knowledge gaps. The applicant should also recognize and address the systems necessary to develop or expand a program for the prevention of primary and secondary disabilities.

2. Technical Approach to the Conduct of the Project: (30 points)

Evaluation will be based on:

a. The quality of the proposed plan and approach to establish and operate the office of disabilities prevention to ensure its capability to function as a coordinating focus and to provide technical assistance throughout the state;

b. The quality of the plan to establish the advisory body including its organizational composition and intended impact on policy, planning, and oversight for prevention activities; including an indication of how it will complement other such councils in the state;

c. The quality of the approach to develop and implement the state strategic plan for the prevention of disabilities;

d. The overall quality, reasonableness, feasibility, and logic of the designed project objectives, including the overall work plan and timetable for accomplishment;

e. The strength of the proposed evaluation plan to measure the effectiveness of all project components, incorporating both process and outcome measures;

f. The quality of the strategy that illustrates how disabilities prevention activities will be promoted and communicated; and how effective working relationships with other groups throughout the state will be coordinated;

g. The quality of described preventive services for low income and minority populations; and how access for persons with disabilities to services, opportunities, and project facilities will be achieved.

3. Surveillance Systems: (35 Points)

Evaluation of this criteria will be based on the quality of the applicant's surveillance plan and design, methods and approaches, time lines for implementation, collaborative support and intra/inter-agency agreements for data sharing, data linkage, access and analysis potential, and dissemination capacity. This criteria includes the applicant's rationale for selecting the targeted disabilities and evidence of the capacity to conduct a comprehensive surveillance program.

4. Community Projects: (15 Points)

Evaluation will be based on the quality of the applicant's description of planning efforts and anticipated methods to design and conduct a community intervention project(s). This criteria does not include the design for an actual project, but how the applicant plans to prepare for a community project with its basis in surveillance. This should include anticipated plans and approaches to:

(a) Analyze data and use such data for intervention planning;

(b) Build coalitions within communities;

(c) Identify state-level cooperating organizations in the planning and delivery of intervention programs; and

(d) Establish epidemiologically-sound evaluations on the effectiveness of interventions. If an actual community project is proposed based on existing date, the planning process for its implementation as described above will be the basis for evaluation under this criteria.

5. Plan to Become Self-Sustaining: (5 Points)

This criteria will be assessed on the extent and commitment of the applicant for cost-sharing and efforts toward self-sufficiency for at least major components of the project.

6. Budget Justification and Adequacy of Facilities: (Not Scored)

The proposed budget will be evaluated on the basis of its reasonableness, concise and clear justification, and consistency with the intended use of cooperative agreement funds. The application will also be reviewed as to the adequacy of existing and proposed facilities and resources for conducting project activities.

Other Requirements

A. Paperwork Reduction Act

Projects funded through this cooperative agreement that involve the collection of information from ten or more individuals will be subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

B. Human Subjects and Confidentiality

Individual state projects may include research on human subjects, including access to personal identifiers to link relevant data sets. Therefore, applicants must comply with the Department of Health and Human Services Regulations (45 Code of Federal Regulations 46) regarding the protection of human subjects. Assurances must be provided that the project or activity will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing evidence of this assurance in accordance with the appropriate guidelines and forms provided in the application kit.

Executive Order 12372

Applications are subject to the Intergovernmental Review of Federal Programs as governed by Executive Order 12372. Executive Order 12372 sets up a system for state and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their state Single Point of Contacts (SPOCs) as early as possible to alert them to the prospective applications and receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC of each affected state. A current list of SPOCs is included in the application kit. If SPOCs have any state process recommendations on applications submitted to CDC, they should forward them to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E–14, Atlanta, Georgia 30305, no later than 60 days after the deadline date for new competing awards. The granting agency does not guarantee to "accommodate or explain" for state process recommendations it receives after that date.

Catalog of Federal Domestic Assistance (CFDA)

The Catalog of Federal Domestic Assistance number is 93.184.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E–14, Atlanta, Georgia 30305 on or before July 30, 1992.

1. *Deadlines:* Applications will be considered to have met the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent on or before the deadline date and received in time for submission for the review process. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.

2. *Late Applications:* Applications that do not meet the criteria in 1.a. or 1.b. above are considered late. Later applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures, an application package, and business management technical assistance may be obtained from Adrienne McCloud, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E–14, Atlanta, Georgia 30305, (404) 842–6634.

Programmatic Technical Assistance may be obtained from Joseph B. Smith, Disabilities Prevention Program, National Center for Environmental Health and Injury Control, Centers for Disease Control, 1600 Clifton Road, NE., Mailstop F–41, Atlanta, Georgia 30333, (404) 488–4905.

Please refer to Announcment No. 248 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, (Telephone (202) 783–3238).

Dated: June 25, 1992.

Robert L. Foster,

Acting Associate Director for Management and Operations, Centers for Disease Control.

[FR Doc. 92–15399 Filed 6–30–92; 8:45 am]

BILLING CODE 4160–18–M

Centers for Disease Control

Folic Acid To Prevent Spina Bifida and Other Neural Tube Defects; Meeting

The National Center for Environmental Health and Injury Control (NCEHIC), Centers for Disease Control (CDC), announces the following meeting.

NAME: The use of Folic Acid to Prevent Spina Bifida and Other Neural Tube Defects.

TIME AND DATE: 8:30 a.m.–4 p.m., July 27, 1992.

PLACE: CDC, Auditorium A, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

STATUS: Open to the public for observation and comment, limited only by the space available. The meeting room accommodates approximately 35 people.

PURPOSE: Spina bifida and anencephaly (neural tube defects (NTDs)) are common serious birth defects in the United States and contribute substantially to worldwide infant mortality and disability. Each year in the United States about 2,500 infants are born with spina bifida or anencephaly. Several recent studies suggest that daily oral supplementation with folic acid before conception and during the first trimester of pregnancy will prevent a substantial proportion of spina bifida and other NTDs. The Centers for Disease Control is considering a general recommendation for all American women who could become pregnant.

At the meeting CDC will request comments on the following draft recommendation: "All women in the United States who are capable of becoming pregnant should consume 0.4 mg of folic acid per day for the purpose of preventing spina bifida and other neural tube defects."

An invited group of qualified individuals will review the scientific

evidence during the meeting and will provide CDC with their individual recommendations regarding the use of folic acid supplementation for the prevention of NTDs among U.S. women capable of pregnancy. At the conclusion of the morning and afternoon sessions, all attendees will have an opportunity to provide oral and/or written comments for the record.

For a period of 15 days following the meeting, through August 11, 1992, the official record of the meeting will remain open in order that written comments may be submitted and be made part of the record. Comments may be mailed to the contact person listed below.

CONTACT PERSON FOR ADDITIONAL INFORMATION: J. David Erickson, D.D.S., Chief, Birth Defects and Genetic Diseases Branch, Division of Birth Defects and Developmental Disabilities, Mailstop F45, NCEHIC, CDC, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Dated: June 24, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92-15398 Filed 6-30-92; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

Advisory Committee; Notice of Meeting; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of June 1, 1992 (57 FR 23106), that announced a public meeting on the Circulatory System Devices Panel of the Medical Devices Advisory Committee. When the document was published, the date of signature by the authorized official was incorrectly given as "May 27, 1992." However, the actual date should have read "May 26, 1992." This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Robin F. Thomas, Office of Policy (HF-27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

In FR Doc. 92-12715, appearing on page 23106, in the **Federal Register** of Monday, June 1, 1992, the following correction is made: On page 23107, in the third column, at the end of the document, the date "May 27, 1992" is corrected to read "May 26, 1992."

Dated: June 26, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-15475 Filed 6-30-92; 8:45 am]

BILLING CODE 4160-01-F

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Department of Health and Human Services. This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before this advisory committee. For this meeting the Department is following the procedures in 21 CFR part 14 that apply to meetings of advisory committees to the Food and Drug Administration.

MEETING: The following advisory committee meeting is announced:

Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants (Ranch Hand Advisory Committee)

Date, time, and place. July 30, 1992, 9 a.m., Marriott Hotel, 4240 La Jolla Village Dr., La Jolla, CA.

Type of meeting and contact person. Open public hearing, July 30, 1992, 9 a.m. to 10 a.m., unless public participation does not last that long; closed committee deliberations, 10 a.m. to 5 p.m.; Ronald F. Coene, National Center for Toxicological Research (HFT-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3155.

General function of the committee. The committee shall advise the Secretary and the Assistant Secretary for Health concerning its oversight of the conduct of the Ranch Hand Study by the Air Force and other studies in which the Secretary or the Assistant Secretary for Health believes involvement by the advisory committee is desirable.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make a formal presentation should notify the contact person before July 20, 1992, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their comments.

Closed committee deliberations. The committee will conduct a site visit of the Air Force's contractor to review data collection and quality assurance activities of the third followup exam of participants in the Air Force Health Study: An Epidemiologic Investigation of Health Effects in Air Force Personnel Following Exposure to Herbicides. The committee will discuss information of a personal nature, including medical evaluation data on individuals participating in the study, where disclosure would constitute a clearly unwarranted invasion of personal privacy relevant to the Air Force Health Study. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(6)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative session to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: June 25, 1992.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 92–15477 Filed 6–30–92; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96–511).

1. *Type of Request:* Revision; *Title of Information Collection:* Request for Certification in the Medicare and/or Medicaid Program to Provide Outpatient Physical Therapy and/or Speech Pathology Services (OPT/SPS) and Medicare OPT/SPS Survey Report; *Form Numbers:* HCFD–1856 and 1893; *Use:* Form HCFA–1856, Request for Certification in the Medicare and/or Medicaid Program to Provide OPT/SPS, is a facility identification and screening form used to initiate the certification process and to determine if the provider has sufficient personnel to participate in the Medicare/Medicaid Programs. Form HCFA/1893, OPT/SPS Survey Report, is used by the State agencies to record data collected to determine facility compliance with individual conditions of participation and report it to the Federal government; *Frequency:* Biennially; *Respondents:* State/local governments; *Estimated Number of Responses:* 650; *Average Hours per response:* 1.75; *Total Estimated Burden Hours:* 1,138.

2. *Type of Request:* New; *Title of Information Collection:* Conditions of Coverage for Organ Procurement Organizations; *Form Number:* HCFA–R–13; *Use:* Organ procurement organizations are required to submit accurate data to HCFA concerning population and information on donors and organs to assure maximum effectiveness in the procurement and distribution of organs; *Frequency:* Annually; *Respondents:* Non-profit institutions; *Estimated Number of Responses:* 69; *Average Hours per Response:* 60.95; *Total Estimated Burden Hours:* 4,206.

3. *Type of Request:* New; *Title of Information Collection:* Information Collection Requirements in Regulation MB–019 for Home and Community-based Services (HCBS) Waiver for Individuals Age 65 or older; *Form Number: HCFA–R–16; Use:* States may prepare a *Medicaid Waiver"* request for waiver of specific Medicaid coverage requirements in order to provide home and community-based services to individuals over age 65 who would otherwise be institutionalized. Once approved, States are required to submit cost reports on the operation of the waiver program and may be renewed after three years: *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 4; *Average Hours per Response:* 65; *Total Estimated Burden Hours:* 260 (reporting) and 63,546 (recordkeeping) for a total of 63,806.

4. *Type of Request:* Extention; *Title of Information Collection:* Federal Re-review Process, Medicaid Eligibility Quality Control (MEQC); *Form Number:* HCFA–9010; *Use:* The HCFA regional offices request the Medicaid State agency to submit beneficiaries' MEQC files and State agency records to document eligibility factors and the accuracy of paid claims. The HCFA regional offices use these files during the Federal re-review process in which they compare Federal and State findings; *Frequency:* Monthly; *Respondents:* State/local governments; *Estimated Number of responses:* 8,976; *Average Hours per Response:* .25; *Total Estimated Burden Hours:* 2,244.

5. *Type of request:* Reinstatement; *Title of Information Collection:* Skilled Nursing Facility (SNF) and SNF Health Care Complex Cost Report; *Form Number:* HCFA–2540; *Use:* The SNF and SNF Health Care Complex Cost Report is the cost report to be used by free-standing SNF's to submit annual information to achieve settlement of costs for health care services rendered to Medicare beneficiaries; *Frequency:* Annually; *Respondents:* State/local governments, non-profit institutions, and small businesses or organizations; *Estimated Number of Responses:* 7,000; *Average Hours per Response: 64; Total Estimated Burden Hours:* 448,000 (reporting, and 924,000 (recordkeeping) for a total of 1,372.00.

6. *Type of Request:* Revision; *Title of Information Collection:* Hospital and Hospital Health Care Complex Cost Report; *Form Number:* HCFA–2552–92; *Use:* Providers of services participating in the Medicare program are required to submit annual information to achieve settlement of costs for hospital services rendered to Medicare beneficiaries. This form is filed annually by hoispitals and hospital health care complexes participating in the Medicare Program; *Frequency:* Annually; *Respondents:* Businesses/other for profit, non-profit institutions, and small businesses or organizations; *Estimated Number of Responses:* 7,000; *Average Hours per Response:* 54.366; *Total Estimated Burden Hours:* 380,560 (reporting) and 4,053,000 (recordkeeping) for a total of 4,433,560.

7. *Type of Request:* Extension; *Title of Information Collection:* Information Collection Requirements in 42 CFR 418.83, Hospice Core Service: Nursing; *Form Number:* HCFA–R–66; *Use:* This information collection permits hospices to request a waiver from furnishing direct nursing services. In order to request a waiver, hospices have to meet certain conditions and demonstrate their efforts to hire nurses as well as establish that they were operating as a hospice before January 1, 1983: *Frequency:* Annually; *Respondents:* Businesses/other for profit, non-profit institutions, and small businesses/organizations; *Estimated Number of Responses:* 1; *Average Hours per Response:* 1; *Total Estimated Burden Hours:* 1.

8. *Type of Request:* Revision; *Title of Information Collection:* Home Office Cost Statement; *Form Number:* HCFA–287–92; *Use:* Medicare provisions permit components of chain organizations to be reimbursed for certain costs incurred by the Home Office of the chain. The Home Office Cost Statement is required by the fiscal intermediary to verify Home Office costs claimed by the components; *Frequency:* Annually; *Respondents:* Businesses or other for profit, non-profit institutions, and small businesses or organizations; *Estimated Number of Responses:* 1,231; *Average Hours per Response:* 328; *Total Estimated Burden Hours:* 403,768 (reporting) and 169,878 (recordkeeping) for a total of 573,646.

Additional Information or Comments: Call the Reports Clearance Office on 410–966–2088 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Eydt, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: June 23, 1992.

William Toby, Jr,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 92–15359 Filed 6–30–92; 8:45 am]

BILLING CODE 4120–03–M

Public Health Service

Centers for Disease Control, Ryan White Comprehensive Aids Resources Emergency Act of 1990, Public Law 101–381; Delegation of Authority

Notice is hereby given that in furtherance of the February 21, 1991, delegation of authorities under the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (Pub. L. 101–381), as amended hereafter, from the Secretary of Health and Human Services to the Assistant Secretary for Health (43 FR 9226), I have delegated, with authority to redelegate, under title XXVI of the PHS Act, sections 2682–2690 to the Director, Centers for Disease Control.

This delegation excludes the authorities to promulgate regulations and to submit reports to the Congress.

This delegation became effective on June 2, 1992. In addition, I have affirmed and ratified any actions taken by the Director, Centers for Disease Control, or his subordinates which, in effect, involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

Dated: June 2, 1992.

James O. Mason,

Assistant Secretary for Health.

[FR Doc. 92–15479 Filed 6–30–92; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–92–3469]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is solicting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information:

(1) The title of the information collection proposal;

(2) The office of the agency to collect the information;

(3) The description of the need for the information and its proposed use;

(4) The agency form number, if applicable;

(5) What members of the public will be affected by the proposal;

(6) How frequently information submissions will be required;

(7) An estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response;

(8) Whether the proposal is new or an extension, rein statement, or revision of an information collection requirement; and

(9) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 24, 1992.

Kay Weaver,

Acting Director, Information Resources, Management Policy and Managment Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Supportive Housing Demonstration—Renewal Application.

Office: Community Planning and Development.

Description of the Need for the Information and its Porposed Use: The information is needed to assist HUD in determining whether existing programs receiving Transitional Housing and Permanent Housing for Handicapped Homeless funds under the Supportive Housing Demonstration (SHD) should receive renewal grants as stipulated in the National Affordable Housing Act of 1990. The information collected in the application will be used by HUD reviewers to determine whether to renew the applicant's funding for operating costs and supportive services for a period of time not to exceed the difference between the initial funding period and ten years from the date residents initially occupy the facility..

Form Number: HUD–40109 and SF–424.

Respondents: State or Local Governments and Non Profit Institutions.

Frequency of Submission: One-time.

Reporting burden:

	Number of respondents	×	Frequency of reponses	×	Hours per response	=	Burden hours
Renewal Application	215		1		20		4,300

Total Estimated Burden Hours: 4,300.

Status: Extension.

Contact: James N. Forsberg, HUD, (202) 708–4300, Jennifer Main, OMB, (202) 395–6880

Dated. June 24, 1992.

[FR Doc. 92–15453 Filed 6–30–92; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–92–3468]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Mangement and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information,as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information:

(1) The title of the information collection proposal;

(2) The office of the agency to collect the information;

(3) The description of the need for the information and its proposed use;

(4) The agency form number, if applicable;

(5) What members of the public will be affected by the proposal;

(6) How frequently information submissions will be required;

(7) An estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response;

(8) Whether the proposal is new or an extension, rein statement, or revision of an information collection requirement; and

(9) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535 (d).

Dated: June 24, 1992.

Kay Weaver,

Acting Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Performance Funding System: Applicability of New Formula to Trouble Public Housing Agencies-FR–3227.

Office: Public and Indian Housing.

Description of the need for the information and its proposed use: This information is used by Public Housing Agencies for inclusion in budget submissions which are reviewed and approved by Field Offices as the basis for obligating operating subsidies. This information is necessary in order to calculate the eligibility for operating subsidies under the Performance Funding System regulation, as amended by the Proposed Rule.

Form Number: None.

Respondents: State or Local Governments.

Frequency of Submission: One-Time.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Information, Collection	140		1		4		560

Total Estimated Burden Hours: 560.
Status: New.
Contact: John T. Comerford, HUD, (202) 708–1872, Jennifer Main, OMB, (202) 395–6880.

Dated: June 24, 1992.

[FR Doc. 92–15454 Filed 6–30–92; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–92–3467]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information:

(1) The title of the information collection proposal;

(2) The office of the agency to collect the information;

(3) The description of the need for the information and its proposed use;

(4) The agency form number, if applicable;

(5) What members of the public will be affected by the proposal;

(6) How frequently information submissions will be required;

(7) An estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response;

(8) Whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and

(9) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 22, 1992.

John T. Murphy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Public Housing Resident Management (24 CFR 964)—FR–2519.

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: The information collection provide HUD policies, guidelines and requirements on Resident Management of Public Housing.

Form Number: None.

Respondents: State or Local Governments, Non-Profit Institutions and Small Businesses or Organizations.

Frequency of Submission: On Occasion.

Reporting Burden:

Section	Number of Respondents	x	Frequency of Response	x	House per Response	=	Burden Hours
964.9(b)	50		1		2		100
964.54	500		1	4	2,000		
964.43	50		1	2	100		
964.29(c)(4)	75		1		2		150

Total Estimated Burden Hours: 2,350.
Status: Reinstatement.
Contact: Sharron D. Lipcomb, HUD, (202) 708–3611, Dorothy Walker, HUD, (202) 708–3611, Jennifer Main, OMB, (202) 395–6880.

Dated: 22 June 1992.

[FR Doc. 92–15455 Filed 6–30–92; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–150–4830–24 1A]

Call for Nominations for District Advisory Councils

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for Nominations for District Advisory Councils.

SUMMARY: The purpose of this notice is to solicit public nominations to fill those positions for which terms expire this year on each of the Bureau of Land Management's (BLM) 52 district advisory councils.

Each council is composed of 10 members, except the Northern Alaska Advisory Council and the California Desert District Advisory Council, which are composed of 11 and 15 members, respectively. Under the established staggered-term arrangement, the terms of approximately one-third of the members on each council will expire on December 31, 1992, and must be filled. Current council members may be reappointed or new members may be appointed. However, the eligibility of

current council members for reappointment may be affected by the governing regulations (43 CFR 1784.3(b)). Appointments made by the Secretary of the Interior pursuant to this call will assure continued representation of specific categories of interest on each council. The new terms will expire December 31, 1995.

To assure council membership that is fairly balanced in terms of points of view represented and functions performed, nominees must be qualified to provide advice in certain areas that are identified with each council position to be filled. The specific number of positions to be filled on each council and their categories will be announced through local news releases in the appropriate States and BLM Districts. The categories will include the following: Elected General Purpose Government, Environmental Protection, Recreation, Renewable Resources (livestock, forestry, agriculture), Non-Renewable Resources (mining, oil and gas, extractive industries), Transportation/Rights-of-Way (or occupancy issues), Wildlife, Public-at-Large.

The purpose of the councils is to provide informed advice to the respective BLM District Managers on the management of the public lands. Members will serve without salary, but will be reimbursed for travel and per diem expenses at current rates for Government employees.

Each council normally will meet at least twice annually. Additional meetings may be called by the District Manager or his designee in connection with special needs for advice.

Persons wishing to nominate individuals or to be nominated to serve on an advisory council should contact the appropriate District Manager at the corresponding BLM District Office address listed below to ascertain which categories of interest are to be represented. They should then provide the District Manager with the names, addresses, occupations, and other relevant biographical information of qualified nominees.

DATES: All nominations should be received by July 31, 1992.

ADDRESSES: The District *names* (*in Italics*) and their addresses are as follows:

Alaska

Anchorage and *Glennallen* Districts (jointly served by the Southern Alaska Advisory Council): c/o BLM Anchorage District Office, 6881 Abbott Loop road, Anchorage, Alaska 99507.

Arctic, Kobuk, and *Steese-White Mountain* Districts (jointly served by the Northern Alaska Advisory Council): c/o Public Affairs Staff, BLM Fairbanks Support Center, 1150 University Avenue, Fairbanks, Alaska 99709–3844.

Arizona

Arizona Strip: 390 North 3050 East, St. George, Utah 84770.

Phoenix: 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Safford: 425 East 4th Street, Safford, Arizona 85546.

Yuma: 3150 Winsor Avenue, Yuma, Arizona 85364.

California

Bakersfield: 800 Truxtun Avenue, Bakersfield, California 93301.

California Desert: 6221 Box Springs Blvd., Riverside, California 92507.

Susanville: 7050 Hall Street, Susanville, California 96130–3730.

Ukiah: 555 Leslie Street, Ukiah, California 95482–5599.

Colorado

Canon City: P.O. Box 2200, Canon City, Colorado 81215–2200.

Craig: 455 Emerson Street, Craig, Colorado 81625.

Grand Junction: 2815 "H" Road, Grand Junction, Colorado 81506.

Montrose: 2465 South Townsend Avenue, Montrose, Colorado 81401.

Idaho

Boise: 3948 Development Avenue, Boise, Idaho 83705.

Burley: Route 3, Box 1, Burley, Idaho 83318.

Coeur d'Alene: 1808 North 3rd Street, Coeur d'Alene, Idaho 83814.

Idaho Falls: 940 Lincoln Road, Idaho Falls, Idaho 83401.

Salmon: P.O. Box 430, Salmon, Idaho 83467.

Shoshone: P.O. Box 2–B, Shoshone, Idaho 83352.

Montana

Butte: P.O. Box 3388, Butte, Montana 59702–3388.

Dickinson: 2933 Third Avenue West, Dickinson, North Dakota 58601.

Lewistown: P.O. Box 1160, Lewistown, Montana 59457–1160.

Miles City: P.O. Box 940, Miles City, Montana 59301–0940.

New Mexico

Albuquerque: 435 Montano Road, N.E., Albuquerque, New Mexico 87107.

Las Cruces: 1800 Marquess Street, Las Cruces, New Mexico 88005.

Roswell: P.O. Box 1397, Roswell, New Mexico 88202–1397.

Nevada

Battle Mountain: P.O. Box 1420, Battle Mountain, Nevada 89820.

Carson City: 1535 Hot Springs Road, Carson City, Nevada 89706–0638.

Elko: P.O. Box 831, Elko, Nevada 89801.

Ely: HC 33, Box 150, Ely, Nevada 89301–9408.

Las Vegas: P.O. Box 26569, Las Vegas, Nevada 89126.

Winnemucca: 705 East 4th Street, Winnemucca, Nevada 89445.

Oregon

Burns: HC 74–12533 Highway 20 West, Burns, Oregon 99738.

Coos Bay: 1300 Airport Lane, North Bend, Oregon 97459–2000.

Eugene: P.O. Box 10226, Eugene, Oregon 97440.

Lakeview: P.O. Box 151, Lakeview, Oregon 97630–0055.

Medford: 3040 Biddle Road, Medford, Oregon 97504.

Prineville: 185 East 4th Street, Prineville, Oregon 99754.

Roseburg: 777 N.W. Garden Valley Blvd., Roseburg, Oregon 97470.

Salem: 1717 Fabry Road, Southeast, Salem, Oregon 97306.

Spokane: East 4217 Main, Spokane, Washington 99202.

Vale: 100 Oregon Street, Vale, Oregon 97918.

Utah

Cedar City: 176 East D.L. Sargent Drive, Cedar City, Utah 84720.

Moab: 82 East Dogwood, Moab, Utah 84532.

Richfield: 150 East 900 North, Richfield, Utah 84701.

Salt Lake: 2370 South 2300 West, Salt Lake City, Utah 84119.

Vernal: 170 South 500 East, Vernal, Utah 84078.

Wyoming

Casper: 1701 East "E" Street, Casper, Wyoming 82601.

Rawlins: P.O. Box 670, Rawlins, Wyoming 82301.

Rock Springs: P.O. Box 1869, Rock Springs, Wyoming 82901–1869.

Worland: P.O. Box 119, Worland, Wyoming 82401.

FOR FURTHER INFORMATION CONTACT: The appropriate District Managers.

Dated: June 17, 1992.

Cy Jamison,

Director.

[FR Doc. 92–14954 Filed 6–30–92; 8:45 am]

BILLING CODE 4310–84–M

[NV-030-4333-12]

Establishment of Supplementary Rules; Sand Mountain Recreation Area, Carson City District, NV

AGENCY: Bureau of Land Management, Nevada.

ACTION: Establishment of supplemental rules and revision of existing rules of conduct for the Sand Mountain Recreation Area, BLM, Carson City District, Nevada.

SUMMARY: The purpose of these rules is to provide for the protection of persons, property, and public lands and resources. They consolidate and clarify rules published in previous **Federal Register** notices and establish additional supplemental rules of conduct for visitors to the Sand Mountain Recreation Area. More specifically, the purposes fall into the following categories:

A. Implementation of Management Plan

Certain prohibited activities were recommended in the Recreation Area Management Plan (Revised 1985) for the Sand Mountain Recreation Area. These recommendations subsequently were published as specific prohibited acts in the **Federal Register** on March 12, 1986. These rules require minor modification and clarification.

B. Public Safety

Certain other supplementary rules are necessary in order to provide for the safety of visitors to the Recreation Area. Speed limits are needed on access roads and in designated camping areas. Ignition of fireworks is a violation of State law and a danger to both persons and property.

C. Protection of Public Lands and Resources

Clarification of existing rules is needed to protect plant life, wildlife habitat and historic resources. Indiscriminate vehicle use in that portion of the Recreation Area where the off-road vehicle designation is "limited" (**Federal Register**, September 15, 1988) has destroyed vegetation, caused harassment of wildlife and threatens the integrity of the Sand Springs Pony Express Station and Desert Study Area. These rules specifically identify those routes which are open to vehicle use within this "limited" designation area. Rules regarding the closure of certain lands within the Recreation Area to camping were published in the **Federal Register** on May 1, 1992. This notice corrects an omission in the legal description of those lands.

In addition to the regulations contained in 43 CFR part 8365, the following supplemental rules will apply to the Sand Mountain Recreation Area:

1. All off-highway motor vehicles, other than those traveling on maintained roads and within designated camping areas, shall be equipped with a whip, which is any pole, rod, mast, or antenna, that is securely mounted on the vehicle and which extends to a height of at least eight (8) feet from the surface of the ground when the vehicle is stopped. When the vehicle is stopped, the whip shall be capable of standing upright when supporting the weight of any attached flags. At least one whip attached to each vehicle shall have a solid red or orange colored safety flag with a minimum size of six (6) inches by twelve (12) inches, and be attached within ten (10) inches of the top of the whip. Flags may be of pennant, triangle, square or rectangular shape.

2. The discharge or use of firearms, other weapons, or fireworks anywhere within the Recreation Area is prohibited.

3. No person shall operate any motor vehicle in excess of 25 mph on any maintained road within the Recreation Area, or in excess of 15 mph within any designated camping area.

4. Within that portion of the Recreation Area where vehicle use is designated as "limited", there are only two roads open to motorized vehicles. These roads are:

(a) The main access road leading from U.S. Highway 50 to the base of Sand Mountain and,

(b) The secondary access road leading from the main access road to the parking area near the Sand Springs Pony Express Station and Desert Study Area.

5. Camping on the following lands, other than in an area designated for that purpose, is prohibited:

Mt. Diablo Meridian

T.17N., R.32E.,
Sec. 32
Sec. 33

T.16N., R.32E.
Sec. 4 (that portion within the Recreation Area)
Sec. 5 (that portion within the Recreation Area)

EFFECTIVE DATE: August 1, 1992.

FOR FURTHER INFORMATION CONTACT: James M. Phillips, Lahontan Resource Area Manager, Carson City District Office, 1535 Hot Springs Road, suite 300, Carson City, Nevada 89706-0638. Telephone (702) 885-6100.

SUPPLEMENTAL INFORMATION: The authority for establishing supplemental rules is contained in 43 CFR 8365.1-6. These rules have been recommended and adopted in order to provide for the protection of persons, property, and public lands and resources. These rules will be available in the Carson City District Office, which has jurisdiction over the Sand Mountain Recreation Area, and also will be posted within the Recreation Area itself.

Dated: June 16, 1992.

James W. Elliott,

District Manager.

[FR Doc. 92-15372 Filed 6-30-92; 8:45 am]

BILLING CODE 4310-HC-M

[OR-933-4212-17; GP2-284]

Applicability of State and County Health, Building, Sanitation, and Fire Codes; OR

AGENCY: Bureau of Land Management, Interior.

ACTION: To protect persons, property, public lands and resources by prohibiting violations of State and County health, building, electrical, fire, and sanitation codes on Bureau administered lands in the State of Oregon.

SUMMARY: Uniform building codes are established to provide the minimum requirements and standards for the protection of the public health, safety and welfare. Code requirements are established and defined in the latest edition of the Uniform Building Codes, Uniform Plumbing Code, Uniform Mechanical Code, the National Electrical Code, Oregon building code regulations adopted pursuant to ORS 455 and Protection of Building from Fire statutes described under ORS 479.

There are structures (portable, mobile and/or permanently affixed to the ground) currently in existence and/or being built or placed on Bureau administered lands in Oregon in noncompliance with Uniform National or State Codes.

These substandard structures constitute a hazard to the occupants of such structures, to public land users and to the protection of the public lands and resources.

Rule

This rule supplements the rules located in 43 CFR 8365.1 as authorized by 43 CFR 8365.1-6. On all public lands administered by the Bureau of Land

Management in the State of Oregon, no person shall maintain, construct, place, occupy or use any structure, tent, shed, cabin, hut, trailer, motorhome, or dwelling of any kind in violation of any State or County Health, Building, Sanitation or Fire Code. This rule will apply to any structure on public lands existing on or after the effective date of this rule and will be enforceable by appropriate Federal authorities including BLM officials with delegated law enforcement authority, as well as appropriate state and local authorities.

SUPPLEMENTARY INFORMATION: Authority to create this supplementary rule is contained in 43 CFR 8365.1–6. Any violations of the prohibitions of this supplemental rule shall be punishable by a fine of not more than $1,000 or imprisonment of not more than 12 months as noted in 43 CFR 8360.0–7.

DATES: This rule will be in effect July 24, 1992 and is permanent until canceled, amended or replaced.

FOR FURTHER INFORMATION CONTACT: Contact the Division of Lands and Renewable Resources at (503) 280–7063 or the Law Enforcement staff at (503) 280–7345 at the Bureau of Land Management's Oregon/Washington State Office, P.O. Box 2965, 1300 NE. 44th, Portland, Oregon 97208. The rule will be available at all BLM offices in the State of Oregon, addresses and telephone numbers are available from the Public Affairs office, above address and (503) 280–7027.

Dated: June 22, 1992.

Elaine Y. Zielinski,

Deputy State Director for Lands and Renewable Resources.

[FR Doc. 92–15405 Filed 6–30–92; 8:45 am]

BILLING CODE 4310–33–M

Fish and Wildlife Service

Receipt of Applications for Permit

The public is invited to comment on the following applications for permits to conduct certain activity with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361) *et seq.* and the regulations governing marine mammals (50 CFR 18).

Applicants

(1) Niigata City Aquarium, Niigata, Japan, PRT–765191.

(2) Noboribetsu Marinepark Aquarium, Noboribestsu, Japan, PRT–765480.

(3) Osaka Aquarium, Osaka, Japan, PRT–765481.

(4) Yomiuri Land Marine Aquarium, Tokyo, Japan, PRT–765594.

The U.S. agent for these aquariums is: International Animal Exchange, Ferndale, Michigan.

Type of Permit: Take for public display.

Name and Number of Animals: Northern Sea Otter (*Enhydra lutris lutris*) 19 animals to be permanently removed for public display in Japan.

Summary of Activity to be Authorized: The applicants proposed to take (capture by tangle net, handle, and hold for up to 3 hours) and export 19 northern sea otters and inadvertently harass others during capture. The sea otters will be on permanent public display at the four Japanese Aquariums where educational information will be provided to the public.

Source of Marine Mammals for Public Display: The applicants document that currently there are no sea otters in captivity available for their acquisition. Thus, they are requesting removal of 19 sea otters from the waters surrounding Kodiak Island, Alaska.

Period of Activity: July 1992 through September 1993.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of these applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the applications, or request for a public hearing on these applications should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203, within 30 days of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of a hearing is at the discretion of the Director.

Documents submitted in connection with the above applications are available for review during normal business hours (7:45 am to 4:15 pm) in room 432, 4401 North Fairfax Drive, Arlington, Virginia.

Dated: June 25, 1992.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 92– 15379 Filed 6–30–92; 8:45 am]

BILLING CODE 4310–55–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–520 and 521 (Final)]

Certain Carbon Steel Butt-Weld Pipe Fittings From China and Thailand

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act), that an industry in the United States is materially injured or threatened with material injury, by reason of imports from China and Thailand [3] of certain carbon steel butt-weld pipe fittings, provided for in subheading 7307.93.30 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective December 24, 1991, following preliminary determinations by the Department of Commerce that imports of certain carbon steel butt-weld pipe fittings from China and Thailand were being sold at LTFV within the meaning of section 733(b) of the act (19 U.S.C. 1673b(b)). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 23, 1992 (57 FR 2783). The hearing was held in Washington, DC, on May 14, 1992, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on June 24, 1992. The views of the Commission are contained in USITC Publication 2528 (June 1992), entitled "Certain Carbon Steel Butt-Weld Pipe Fittings from China and Thailand: Determinations of the Commission in Investigations Nos. 731–TA–520 and 521 (Final) Under the Tariff Act of 1930, Together With the

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Crawford not participating.

[3] Commissioner Rohr dissenting with respect to Thailand.

Information Obtained in the Investigations."

Issued: June 25, 1992.

By Order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 92-15403 Filed 6-30-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-530 (Final)]

High-Tenacity Rayon Filament Yarn From Germany

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Germany of high-tenacity rayon filament yarn,[3] provided for in subheading 5403.10.30 of the Harmonized Tariff Schedule of the Untied States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective February 20, 1992, following a preliminary determination by the Department of Commerce that imports of high-tenacity rayon filament yarn from Germany were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 25, 1992 (57 FR 10368). The hearing was held in Washington, DC, on May 1, 1992, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on June 18, 1992. The views of the Commission are contained in USITC Publication 2525 (June 1992), entitled "High-tenacity Rayon Filament Yarn from Germany: Determination of the Commission in Investigation No. 731-TA-530 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: June 22, 1992.

By Order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 92-15402 Filed 6-30-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-331]

Certain Microcomputer Memory Controllers, Components Thereof and Products Containing Same

Notice is hereby given that the prehearing conference in this proceeding scheduled for July 20, 1992, and the hearing scheduled to commence immediately thereafter (57 FR 24654, June 10, 1992) are cancelled.

The prehearing conference is rescheduled to commence at 9 a.m. on July 27, 1992, in Courtroom C (room 217), U.S. International Trade Commission Building, 500 E St. SW., Washington, DC, and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register**.

Issued: June 22, 1992.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 92-15400 Filed 6-30-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-318 and 731-TA-560 and 561 (Preliminary)]

Sulfanilic Acid from the Republic of Hungary and India

Determinations

On the basis of the record [1] developed in investigation No. 701-TA-318 (Preliminary), the Commission determines,[2] pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from India of sulfanilic acid [3] that are alleged to be subsidized by the Government of India.

The Commission further determines,[4] on the basis of the record developed in investigations Nos. 731-TA-560 and 561 (Preliminary), pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from the Republic of Hungary (Hungary) and India of sulfanilic acid [3] that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On May 8, 1992, a petition was filed the Commission and the Department of Commerce by R-M Industries, Inc., Fort Mill, SC, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of sulfanilic acid from India and LTFV imports of sulfanilic acid from Hungary and India. Accordingly, effective May 8, 1992, the Commission instituted countervailing duty investigation No. 701-TA-318 (Preliminary) and antidumping duty investigations Nos. 731-TA-560 and 561 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 14, 1992 (57 FR 20711). The conference was held in Washington, DC, on May 29, 1992, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on June 22, 1992. The views of the Commission are contained in USITC Publication 2526 (June 1992), entitled "Sulfanilic Acid from the Republic of Hungary and India: Determinations of the Commission in Investigations Nos. 701-TA-318 and 731-TA-560 and 561 (Preliminary) Under the Tariff Act of 1930, Together With the

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[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Vice Chairman Brunsdale, Commissioner Crawford, and Commissioner Watson dissenting. (Commissioner Watson was appointed vice chairman effective June 17, 1992.)

[3] The imported product subject to this investigation is a multifilament single yarn of viscose rayon with a twist of 5 turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tex.

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Brunsdale dissenting and Commissioner Crawford not participating.

[3] The products covered by these investigations are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid, and sodium salt of sulfanilic acid (sodium sulfanilate). Sulfanilic acid and sodium sulfanilate are provided for in subheadings 2921.42.24 and 2921.42.70 of the Harmonized Tariff Schedule of the United States.

[4] Commissioner Brunsdale dissenting with respect to India and Commissioner Crawford not participating.

Information Obtained in the Investigations."

Issued: June 23, 1992.

By Order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 92-15401 Filed 6-30-92; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Motor Passenger Carrier or Water Carrier Finance Applications Under 49 U.S.C. 11343-11344

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties of, or acquire control of motor passenger carriers or water carriers pursuant to 49 U.S.C. 11343-11344. The applications are governed by 49 CFR part 1182, as revised in Pur., Merger & Cont.-Motor Passenger & Water Carriers, 5 I.C.C.2d 786 (1989). The findings for these applications are set forth at 49 CFR 1192.18. Persons wishing to oppose an application must follow the rules under 49 CFR 1182, subpart B. If no one timely opposes the application, this publication automatically will become the final action of the Commission.

MC-F-20099, filed June 3, 1992. U.S. Transportation Systems, Inc.—Control—SCL Travel, Inc., dba Sterling Coach Lines, Sterling Commuter, Inc., and Gray Line Tours of Atlantic City, Inc. Applicant's representative: Arthur Wagner, Wagner & Di Maio, P.C., 342 Madison Avenue, New York, NY 10173. Applicant U.S. Transportatin Sytem, Inc. (USTS), a motor carrier of passengers under MC-188174, seeks authority to acquire control through purchase of all the outstanding stock of the following motor common carriers of passengers: SCL Travel, Inc., dba Sterling Coach Lines (Sterling Coach) (MC-178485); Sterling Commuter, Inc. (Sterling Commuter) (MC-178370); and Gray Line Tours of Atlantic City, Inc. (Gray Line Tours) (MC-153964). Sterling Coach, Sterling Commuter, and Gray Line Tours are now wholly owned subsidiaries of The Gold Transportation Group, Inc.

Decided June 26, 1992.

By the Commission, the Motor Carrier Board.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-15458 Filed 6-30-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with section 122(d)(2)(B) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9622(d)(2) and with Department of Justice policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Atlas Corporation and Vinnell Mining and Minerals Corporation*, Civil Action No. F-92-5733 (OWW) was lodged on May 29, 1992 with the United States District Court for the Eastern District of California. The defendants are the Atlas Corporation ("Atlas") and Vinnell Mining and Minerals Corporation ("Vinnell"), former "operators" of the Atlas Asbestos Mine Superfund Site ("Site") within the meaning of section 107(a)(1) of CERCLA, 42 U.S.C. 9607(a)(1). The Site is situated approximately 18 miles northwest of Coalinga, California in western Fresno County.

In the consent decree, the defendants agree to implement the entire remedy selected in the Record of Decision ("ROD") for the Site and to pay $1,620,748 of the United States' past costs. Cleanup of the Site includes controlling the release of asbestos from and restricting access to the Mine Area. In addition, the defendants agree to pay 100% of EPA's future oversight and response costs related to implementation of the ROD.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Atlas Corporation and Vinnell Mining and Minerals Corporation*, D.J. Ref. 90-11-2-360.

The proposed Consent Degree may be examined at the Office of the United States Attorney, Eastern District of California, Fresno Division, 4304 Federal Building, 1130 O Street, Fresno, California 93721, and at the Region IX Office of the Environmental Protection Agency, 75 Hawthrone Street, San Francisco, California 94105. The proposed Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington. DC 20004 (202-347-2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $36.50 (50 cents per page reproduction cost) payable to the Treasurer of the United States.

Roger Clegg,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-15373 Filed 6-30-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Jordan Recycling Industries, Inc., David J. Hardy Construction Co., Inc., and Conklin, Ltd.*, Civil Action No. 91-0546-CGC (N.D.N.Y.) was lodged on June 10, 1992 with the United States District Court for the Northern District of New York. The decree provides for defendants Conklin, Ltd. ("Conklin") and David J. Hardy Construction Co. to jointly and severally pay a civil penalty of $148,000 pursuant to the provision of section 113(b) of the Clean Air Act, 42 U.S.C. 7513(b). The civil penalty is for violations occurring from July 1988 through August 1989 of the National Emission Standard for Hazardous Air Pollutants ("NESHAP") promulagated for asbestos pursuant to sections 112 and 114 of the Clean Air Act, 42 U.S.C. 7412 and 7414. The decree also requires future compliance with the asbestos NESHAP regulations and provides for stipulated penalties for future violations.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Jordan Recycling Industries, Inc., David J. Hardy Construction Co., Inc., and Conklin, Ltd.* Civil Action No. 91-0546-CGC (N.D.N.Y.), DOJ reference #90-5-2-1-1379A.

The proposed consent decree may be examined at the Office of the United States Attorney for the Northern District of New York, 445 Broadway, room 231, James T. Foley Federal Building Albany, New York 12207, and at the Environmental Enforcement Section

Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, (202) 347-2072. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $9.00 (25 cents per page reproduction costs), payable to "Consent Decree Library".

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92-15374 Filed 6-30-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with section 122(d)(2)(B) of the Comprehensive Environment Response, Compensation, and Liability Act, 42 U.S.C. 9622(d)(2), and with Department of Justice policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Pine Canyon and Land Company, et al.*, Civil Action No. F-92-5734 (OWW) was lodged on May 28, 1992 with the United States District Court for the Eastern District of California, Fresno Division. The defendants are the Pine Canyon Land Company, the current owner of the Johns-Manville Coalinga Mill Area Operable Unit Site ("Mill Area" or "Site"), located in Fresno County, California, Santa Fe Pacific Company, parent corporation of Pine Canyon; and Catellus Development Corporation, the successor corporation of the immediate past owner of the Site.

In the consent decree, the defendants agree to implement the entire remedial action, estimated to cost approximately $1.9 million. Cleanup of the Site includes controlling the release of asbestos and restricting access to the area. In addition, the defendants agree to pay $995,765.74 of the United States' past costs and to pay 100% of EPA's future oversight and response costs related to implementation of the Record of Decision ("ROD").

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Pine Canyon Land Company, et al.*, D.J. Ref. 90-11-3-459.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern District of California, Fresno Division, 4304 Federal Building, 1130 O Street, Fresno, California 93721, and at the Region IX Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105. The proposed Consent Decree may be examined at the Environment Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004 (202-347-2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $44.00 (50 cents per page reproduction cost) payable to the Treasurer of the United States.

Roger Clegg,

Acting Assistant Attorney General, Environment and Natural Resources, Division.

[FR Doc. 92-15375 Filed 6-30-92; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and/or Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills ((202) 523-5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA.OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3001, Washington, DC 20503 ((202) 395-6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

Revision

Employment and Training Administration

Job Training Quarterly Survey (JTQS)
1205-231
JTQS 1,2,32,21,21(T)

Form #	Affected public	Respondents	Frequency	Average time per response
JTQS-21	SDAs	170	Quarterly	10 min.
JTQS-20	SDAs	60	Quarterly	10 min.
JTQS-21(T)	SDAs	55	One-time	20 min.

Form #	Affected public	Respondents	Frequency	Average time per response
170 total hours				

The Employment Training Administration will use the data to evaluate programs and services funded under Titles 2A and 3/EDWAA of the Job Training Partnership Act. Each quarter, the Census Bureau will collect data on 3,000 enrollees and 3,000 terminees from the files of Service Delivery Area offices and state offices.

Statement from the Court or other Agency Statement from Institution
1205–0026
ETA 655 and 655A

Form #	Affected public	Respondents	Frequency	Average time per response
ETA 655	State or local governments; Non-profit organizations.	13,500	One-time	25 minutes.
ETA 655A	do	1,500	One-time	30 minutes.
6,420 total hours				

These forms are an essential part of the screening and admissions process for Job Corps. It is especially critical due to the residential nature of the program, where behavior problems can pose a danger to other students. The information collected is critical in determining whether or not an applicant should be enrolled.

Extension

Bureau of Labor Statistics

Employee Benefits Survey
1220–0084
BLS 3111
Annually, but coverage varies: Medium and large private establishments in odd-numbered years; State and local governments and small private establishments in even-numbered years; business or other for-profit organizations, including small businesses; non-profit institutions
1993, 1995: 1900 responses; 2375 hours; 1.25 hours per respondent; 1 form
1994: 3300 responses; 4225 hours; 1.28 hours per respondent; 1 form

The Employee Benefits Survey will present data on employee benefits in medium and large private establishments in 1993 and 1995, and in small (1–99 employees) private establishments and in State and local governments, and small medium, and large establishments in private industry, is used by Federal agencies and the Congress to determine policy affecting benefits of all workers; and by the private sector and State and local governments in benefits administration, union negotiations, and research.

Employment Standards Administration

Waiver of Child Labor Provisions for Agricultural Employment of 10 and 11 year Old Minors in Hand Harvesting of Short Season Crops
1215–0120
On occasion
Farms
1 respondent; 4 total hours; 3 hours per reporting requirement; 1 hour per recordkeeping requirement
Agricultural employers must supply certain information to the Department of Labor when applying for a waiver of the child labor provisions to employ 10 and 11 year old minors in hand harvesting of short season crops. Employers granted waivers are required to maintain certain records.
Medical Travel Refund Request
1215–0054
CM 957
On occasion
Individuals or households; Small businesses or organizations
9,500 respondents; 2,500 total hours; 10 min. per response; 1 form

This form is used by miners (claimants and beneficiaries) who are seeking reimbursement for out-of-pocket expenses incurred when they travel to undergo diagnostic medical testing or treatment for black lung disease.

Employment and Training Administration

Benefits Appeals
1205–0172
ETA 5130
Monthly
State or local governments
53 respondents; 2,544 total hours; 4 hours per response;
1 form

This report is used to monitor the benefit appeals process, to evaluate compliance with the appeals promptness standard and to develop plans for remedial action. The report is also needed for budgeting and for workload figures.

Mine Safety and Health Administration

Representative of Miners
1219–0042
On occasion
Businesses of other for profit; small businesses or organizations
207 respondents; 1 hour per response; 207 total burden hours

The Federal Mine Safety and Health Act of 1977 requires the Secretary of Labor to exercise many of her duties under the Act in cooperation with miners' representatives. The Act also establishes miner's rights which must be exercised through a representative. Title 30 CFR 40 contains procedures which a person or organization must follow in order to be identified by the Secretary as a representative of miners.

Application for Waiver of Surface Facilities Requirement
1219–0024
On Occasion
Businesses or other for profit; small businesses or organizations 1,726 respondents; 30 minutes per response; 863 total burden hours

Requires coal operators to provide bathing facilities, clothing change rooms, and sanitary flush toilet facilities in a location that is convenient for use of the miners. Regulations provide procedures by which an operator may apply for and be granted a waiver.

Miner Ventilation System Plan
1219–0016
Annually
Businesses and other for profit; small businesses or organizations
400 respondents; 24 hours per response; 9,600 total burden hours

Operators of underground metal nonmetal mines are required to prepare written plans of the ventilation system of their mines and to update the plans of

the ventilation system of their mines and to update the plans annually. The information is used to insure that each operator routinely plans, reviews and updates the mine's ventilation system; to insure the availability of accurate and current ventilation information; and to provide MSHA with an opportunity to alert the mine operator to potential hazards.

Signed at Washington DC this 25th day of June, 1992.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 92-15456 Filed 6-30-92; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: Naitonal Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Request for copies must be received in writing on or before August 17, 1992. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Air Force (N1-AFU-91-26). Duplicate and other short-term records of space object detection and tracking system.

2. Department of the Air Force (N1-AFU-92-17, N1-AFU-92-18, N1-AFU-92-20). Copies of materials originated by the Defense Mapping Agency and other agencies that are used in mapping and charting.

3. Department of the Army (N1-AU-92-3). Routine records of closing bases.

4. Department of State, Bureau of Economic and Business Affairs (N1-59-92-8). Teletype messages relating to aviation matters.

5. Department of State, Bureau of Diplomatic Security (N1-59-92-19). Routine and facilitative records relating to security awareness.

6. Department of Transportation, Federal Aviation Administration (N1-237-92-1). Familiarization travel correspondence and forms.

7. Department of the Treasury, Internal Revenue Service (N1-58-92-3). Recapitulation for list of narcotics registrants (IRS Form 2874).

8. Department of the Treasury, Internal Revenue Service (N1-58-91-4). District director's list of narcotics registrants (IRS Form 924).

9. Department of the Treasury, Internal Revenue Service (N1-58-91-5). Necessity certificates granted by the National Production Board and submitted to the IRS (1951-1954).

10. Department of the Treasury, Office of Thrift Supervision (N1-483-92-4). Correspondence and directives related to human resources management.

11. National Archives and Records Administration (N1-GRS-92-2). Revisions to the General Records Schedules relating to downloaded and copied data, administrative data bases and documentation.

12. National Archives and Records Administration (N2-47-92-1). Duplicative, unidentified and fragmentary audiovisual records used in the production of training aids and public information programs, ca. 1960-1970, from the Social Security Administration.

13. National Park Service (N1-079-92-1). Correspondence relating to budgets, report formats and instructions, and administration of the Emergency Relief Administration programs, 1936-42.

14. U.S. General Accounting Office (N1-411-92-2). Disbursing Officers' settlement accounts of civilian pay records, 1938-53.

Dated: June 24, 1992.

Claudine J. Weiher,

Acting Archivist of the United States.

[FR Doc. 92-15409 Filed 6-30-92; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Arts

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Challenge IV Section) to the National Council on the Arts will be held on July 8, 1992 from 9 a.m.-5:30 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public from 9 a.m.-10 a.m. and 4:30 p.m.-5:30 p.m. The topics will be

welcoming remarks and policy discussion.

The remaining portion of this meeting from 10 a.m.–4:30 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, this session will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: June 8, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92–15406 Filed 6–30–92; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Approval of FIPS 46–1 Waiver

AGENCY: Nuclear Regulatory Commission.

ACTION: Public notice.

SUMMARY: The NRC Senior Designated Official pursuant to section 3506(b) of title 44, United States Code, has granted a waiver to the Office of Investigations from the National Institute of Standards and Technology (NIST) Federal Information Processing Standard (FIPS) Publication 46–1, "Data Encryption Standard." FIPS 46–1 allows the data encryption standard to be implemented in hardware. This waiver sets aside the requirement for hardware implementation in favor of a software implementation scheme. This waiver is granted under the criteria that compliance would cause a major adverse financial impact on the operator which is not offset by Government-wide savings.

EFFECTIVE DATE: June 18, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Louis H. Grosman, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 492–5019.

Dated at Rockville, Maryland, this 23rd day of June, 1992.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Director Office of Information Resources Management.

[FR Doc. 92–15459 Filed 6–30–92; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Joint Meeting of the Subcommittees on Plant License Renewal and Materials and Metallurgy; Correction

Notice of a joint meeting of the ACRS Subcommittees on Plant License Renewal and Materials and Metallurgy that was published in the **Federal Register** on Wednesday, June 24, 1992 (57 FR 28194) states that this meeting will be held on Wednesday, July 7, 1992, room P–110, 7920 Norfolk Avenue, Bethesda, MD; it should have stated Tuesday, July 7, 1992. All other items pertaining to this meeting remain the same as published previously.

FOR FURTHER INFORMATION CONTACT: Mr. Elpidio Igne, cognizant ACRS staff engineer (telephone 301/492–8192) between 7:30 a.m. and 4:15 p.m. (EST).

Dated: June 25, 1992.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 92–15478 Filed 6–30–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–440]

The Cleveland Electric Illuminating Co. et al.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–58, issued to the Cleveland Electric Illuminating Company, Centerior Service Company, the Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company and the Toledo Edison Company, (the licensees), for operation of the Perry Nuclear Power Plant, Unit No. 1, located in Lake County, Ohio.

The amendment would revise the Technical Specifications (TSs), to increase the limits on containment maximum average air temperature and normal maximum average suppression pool water temperature; and to reduce the minimum allowable suppression pool water level (with the addition of an appropriate correction factor). Additional proposed changes to the TSs include increasing the allowable upper containment pool water temperature and reducing the allowable minimum upper containment pool water level. Several editorial changes are also proposed.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By August 3, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and

how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions that are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing.

The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, 20555 by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-800-325-6000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John N. Hannon: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d). Completion of any required hearing if it publishes a further notice for public comment of its intent to make a no significant hazards consideration finding in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated June 24, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Rockville, Maryland, this 25th day of June 1992.

For the Nuclear Regulatory Commission.

James R. Hall, Sr.

Project Manager, Project Directorate III-3, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92-15460 Filed 6-30-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-387 and 50-388]

Pennsylvania Power and Light Co. and Allegheny Electric Cooperative, Inc. (Susquehanna Steam Electric Station, Units 1 and 2); Exemption

I

Pennsylvania Power and Light Company and Allegheny Electric Cooperative, Inc. (the licensees) hold Facility Operating License Nos. NPF-14 and NPF-22, which authorize operation of the Susquehanna Steam Electric Station, Units 1 and 2, respectively, at power levels not in excess of 3293 megawatts thermal for each unit. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission or the staff) now or hereafter in effect.

The facilities are boiling water reactors located at the licensees' site in Salem County, Pennsylvania.

II

The licensees requested an exemption from the Commission's regulations in their letter dated August 16, 1991. The requested exemption is from a requirement in Appendix J of 10 CFR part 50 which requires that certain surveillance tests be conducted during the same refueling outage as Inservice Inspections (ISI) required by 10 CFR 50.55a.

The specific requirement is contained in Section III.D.1(a) of Appendix J, 10 CFR part 50, and states that "After the preoperational leakage rate tests [of containment], a set of three Type A tests shall be performed, at approximately equal intervals during each 10-year service period. The third test of each set shall be conducted when the plant is shutdown for the 10-year plant inservice inspections." The Type A tests are defined in Section II.F of Appendix J as "tests intended to measure the primary reactor containment overall integrated leakage rate * * * at periodic intervals * * *" The 10-year inservice inspection is that series of inspections performed every 10 years in accordance with

Section XI of the ASME Boiler and Pressure Vessel Code and Addenda as required by 10 CFR 50.55a. The time and plant conditions required to perform the Type A integrated leakage rate tests (ILRTs) necessitates that they be performed during refueling outages. The time interval between ILRTs should be about 40 months (3⅓ years) based on performing three such tests during each 10-year service period. Since refueling outages do not necessarily occur coincident with a 40-month interval, a permissible variation of 10 months (25% of the interval) is typically authorized in the Technical Specification (TSs) issued with an operating license to permit flexibility in scheduling the ILRTs.

Due to the time and plant conditions required to conduct it, the 10-year ISI required by 10 CFR 50.55a also must be conducted during a refueling outage. The Susquehanna Units operate on an 18-month cycle, therefore, ILRTs are required every other outage to comply with the TS 40±10 month testing interval. This schedule does not coincide with the 10-year ISI and, to comply with the TSs, would require ILRT's to be performed 18 months apart in back-to-back refueling outages at each 10-year interval.

If the requested exemption is not granted, Section III.D.1(a) of Appendix J would require this additional ILRT be performed in an interval considerably shorter than the interval of about 40 months implied in Appendix J. More importantly, this interval would not be consistent with either the intent or the underlying purpose of the rule, Section III.D.1(a) of Appendix J, which requires that these Type A tests "* * * be performed, at approximately equal intervals during each 10-year service period."

The licensees addressed this issue in their exemption request in which they cited from Appendix J that "the purpose of the tests are to assure that (a) leakage through the primary reactor containment and systems and components penetrating primary containment shall not exceed allowable leakage rate values as specified in the technical specifications * * *" The licensees assert and the NRC staff agrees that the Type A tests to be conducted 18 months prior to the 10-year inservice inspection will meet the underlying purpose of the rule in that the overall leak-tightness of the primary containment will be demonstrated. Accordingly, it is not necessary to conduct another Type A test at the 10-year inservice inspection outage to meet the intent of the rule. Performing this additional ILRT would not add significantly to the assurance that the overall leakage rate of the primary containment and its penetrations remain within the value specified in the SSES TSs and would not meet the intent of the rule to conduct these tests at approximately equal (40 month) intervals as cited above.

Each of these two tests, i.e., the Type A test and the 10-year ISI, is independent of each other and provides assurances of different plant characteristics. The Type A tests assure the required leak-tightness to demonstrate compliance with guidance of 10 CFR 100. The 10-year ISI provides assurance of the structural integrity of the structures, systems, and components in compliance with 10 CFR 50.55a. Accordingly, there is no safety-related concern associated with their coupling in the same refueling outage.

On this basis, the NRC staff finds that the licensees have demonstrated that special circumstances as provided in 50.12(a)(2)(ii) are present for the exemption in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of the rule. Further, the staff also finds that the uncoupling of the Type A test from the 10-year ISI will not present an undue risk to the public health and safety.

III

The Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Accordingly, the Commission hereby grants an exemption from the requirements of 10 CFR part 50, Appendix J, Section III.D.1(a):

The Susquehanna Steam Electric Station, Units 1 and 2 Technical Specifications may be revised to delete the requirement that the third ILRT be performed in conjunction with the 10-year inservice inspection. The Exemption does not alter the existing requirement that three ILRTs be performed during each 10-year service period.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will have no significant impact on the quality of the human environment (57 FR 27988).

This Exemption is effective upon issuance.

Dated at Rockville, Maryland this 23d day of June, 1992.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II. Office of Nuclear Reactor Regulation.

[FR Doc. 92-15461 Filed 6-30-92; 8:45 am]

BILLING CODE 7590-01-M

Atomic Safety and Licensing Board

[Docket No. 50-312-DCOM, (Decommissioning Plan); ASLBP No. 92-663-02-DCOM]

Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station, Facility Operating License No. DRP-54; Prehearing Conference

June 23, 1992.

Notice is hereby given that, in accordance with the Licensing Board's Memorandum and Order (Filing Schedules and Prehearing Conference), dated May 15, 1992, as modified by the Consented Motion for Change of Venue of the Prehearing Conference, which we approved on June 17, 1992, a prehearing conference is hereby scheduled for Tuesday, July 14, 1992, beginning at 9:30 a.m., in the Commission's Public Hearing Room, 5th floor, 4350 East West Highway, Bethesda, Maryland. The conference will continue, to the extent necessary, on Wednesday, July 15, 1992, beginning at 9 a.m.

At this conference, the Board will hear oral argument concerning various issues presented by the request for a hearing and petition for intervention in this decommissioning proceeding of the Environmental and Resources Conservation Organization (ECO). As appropriate, the Board will also consider contentions to be filed by ECO by June 29, 1992, as well as future schedules for the proceeding.

Members of the public are invited to attend the prehearing conference. Written participation by persons who are not parties or petitioner, as authorized by 10 CFR 2.715(a), will be permitted during the proceeding, but no oral statements will be heard at this conference.

Bethesda, Maryland, June 23, 1992.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 92-15462 Filed 6-30-92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

[Issuance of Policy Letter 92-3]

Procurement Professionalism Program Policy—Training for Contracting Personnel; Office of Federal Procurement Policy

AGENCY: Executive Office of the President, Office of Management and Budget, Office of Federal Procurement Policy (OFPP).

ACTION: Final issuance of OFPP Policy Letter 92-3.

SUMMARY: Policy Letter 92–3 establishes a Government-wide program of skill-based training in performing contracting and purchasing duties for Heads of Executive Departments and Agencies to include in their procurement career management programs required under section 16 of the OFPP Act (41 U.S.C. 414(4)). The quality of contracting actions depends largely on the professional skills of the Government procurement workforce to help meet agency mission needs. Improved management will help ensure Government interests are effectively represented within a changing legislative and regulatory environment. To assist agencies in this, the Federal Acquisition Institute (FAI) has developed a description of competencies needed to perform contracting duties. These competencies are included as units of instruction of the Contract Specialist Workbook, with suggested levels of learning for each competency. Every contracting official in the Federal Government is expected to be familiar with all contracting competencies. However, agencies may modify this standard by assigning levels of learning commensurate with agency needs.

FOR FURTHER INFORMATION CONTACT: Wayne A. Wittig, Deputy Associate Administrator, OFPP, room 9013, 725 17th Street, NW., Washington, DC 20503. Telephone (202) 395–6803.

SUPPLEMENTARY INFORMATION: A draft of Policy Letter 92–3 was published in the **Federal Register** for review and public comment on April 3, 1992 (57 FR 11530). Comments were received in response to the **Federal Register** notice from 14 agencies, one private organization, and one individual. All comments were reviewed, and where warranted, changes have been made in the final Policy Letter. The main issues and concerns raised during the comment period are summarized below.

1. OFPP Authority to Issue Policy Letter

Two agencies opined that the authority of OFPP in matters involving procurement personnel is limited to a "leadership" or "guidance" role, rather than policy direction. OMB Counsel has confirmed that OFPP has the authority under the OFPP Act (41 U.S.C. 405) as amended to set standards for procurement systems, which include professional development. The Policy Letter sets Government-wide standards which are not overly prescriptive or rule-like in the policies it sets.

2. Agency Flexibility

Several agencies stated that the Policy Letter must allow sufficient policy flexibility to permit using agency-unique training approaches to meeting the required competencies. The Policy Letter was modified to make this point clear. Agency heads are required to have under Section 16 of the OFPP Act (41 U.S.C. 414(4)) a procurement career management program. The Policy Letter establishes the almost eighty contracting duties developed over the years by the Federal Acquisition Institute (FAI) working with agency Procurement Executives as the standard contracting competencies for use under these agency programs. The levels of learning for each duty are to be set by the agency and additional duties may be included to meet agency needs. This flexibility will allow for unique agency requirements on top of a Government-wide base of contracting competencies.

3. Reporting Requirements

Several agencies thought the requirement to submit a plan within 90 days of the effective date of the Policy Letter too burdensome and not required. OFPP does not agree. The reporting requirements allow for agencies to describe ongoing programs which may already exist or are planned to meet the Policy Letter requirements. These programs are to be suitable for the size of the agency and may disclose various ways to meet the requirements of Section 4 of the Policy Letter. Since the effective date is 30 days after the date of publication, the plan is not required for 4 months after date of publication.

4. Budget Impacts

Several agencies commented that sufficient funds to accomplish training either have never been available or are very limited. OFPP recognizes that scarce training resources are available and is issuing the Policy Letter to provide a structure for measuring the cost effectiveness of contracting training. The standards set out in the Policy Letter permit agencies to evaluate how current training is providing the appropriate skills. Savings are expected over time as training courses are consolidated, updated or eliminated as the FAI-developed courses are not made available for agency adaptation. The plan required by the Policy Letter will help in budget deliberations to weigh the most cost-effective measures to improve the contracting function. Thus, carrying out the Policy Letter requirements will provide a budget structure and potential savings that would otherwise be lacking.

5. Include Special Contracting Competencies

Some organizations recommended various duties be added to cover specialized aspects of procurement. The list of contracting duties developed by FAI over the past 15 years has been refined through interagency discussion to be the most meaningful on a Government-wide basis, to date. These may change in the future. However, each agency is free to add to these duties or determine the level of learning for each duty to give the emphasis appropriate to the agency.

6. Outdated Attachments

Several responses noted that the attachments to the draft Policy Letter were outdated in many respects and recommended they be deleted or changed. OFPP agrees and has substituted the more relevant Summary List of Contracting Duties and Levels of Learning as Attachment 1 to the Policy Letter.

7. Need for Stronger Policy Letter

Several agencies and the response received from an individual asked that the Policy Letter be strengthened to assure an effective procurement professionalism program. OFPP feels that the current Policy Letter provides a balanced approach to establish an effective structure for continued agency development of a more professional procurement workforce.

Allan V. Burman,

Administrator.

Policy Letter No. 92–3

To the Heads of Executive Departments and Agencies

Subject: Procurement Professionalism Program Policy—Training for Contracting Personnel

1. *Purpose.* To establish a Government-wide standard and associated policies for skill-based training in performing contracting and purchasing duties.

2. *Authority.* This Policy Letter is issued pursuant to Section 6(a) of the Office of Federal Procurement Policy (OFPP) Act [Public Law 93–400], as amended, (41 U.S.C. 405(a)). It establishes a standard for procurement systems (which includes the professional development of procurement personnel) under the authority of Section 6(d)(2) of the OFPP Act, as amended, (41 U.S.C. 405(d)(2)).

3. *Background.* The quality of contracting actions depends largely on the professional skills of the Government procurement workforce to help meet agency mission needs. Improved management will help ensure Government interests are effectively represented within a changing legislative and regulatory environment.

In July 1990, this office established an inter-agency group to develop a detailed Procurement Professionalism Plan for agencies to identify a comprehensive program of workforce improvement. Four subgroups devised recommended actions on

the recruitment, training, retention and the evaluation of performance of the procurement workforce. The Defense Systems Management College led the training subgroup, which identified several opportunities for improvement and efficiencies when coupled with an enhanced Federal Acquisition Institute (FAI).

Among other things, the training subgroup strongly recommended competency based education for Federal contracting and purchasing personnel. Competency-based education refers to programs that provide an opportunity for the trainee to develop and demonstrate an appropriate level of skill (given the characteristics of the agency's overall mission) at performing a duty. The training subgroup recommendations were used in formulating this policy.

This Policy Letter establishes a standard set of contracting competencies after repeated and extensive coordination with Executive agencies through the FAI. The FAI conducted Government-wide research from 1977 to 1979 to identify contract management tasks. The survey used had a very high participation rate of almost half of all contract specialists in all Executive agencies at the time. During the period 1980–1985, FAI worked with representatives of Procurement Executives to select duties and tasks for training. The selected duties collectively constitute the body of Contracting "competencies." Subsequently, the FAI developed "Units of Instruction" for core competencies, each of which is a blueprint for training one of the selected duties both in the classroom and on-the-job. In 1992, the FAI published these "Units of Instruction" under the title Contract Specialist Workbook. The 1992 edition covers almost 80 duties (see Attachment 1 for a summary list) and more than 800 related tasks. Every contracting official in the Federal Government is expected to attain an appropriate level of skill (refer to Attachment 1) at performing all contracting competencies identified by FAI. However, agencies may modify this standard by assigning levels of learning commensurate with agency needs and adding agency-level competencies.

4. *Policy.* Heads of Executive Departments and Agencies shall ensure that the procurement career management program required under section 16 of the OFPP Act (41 U.S.C. 414(4)):

a. Requires personnel in the contracting occupational series (General Schedule Series 1102), and uniformed personnel in comparable positions, to compete course work and related on-the-job training necessary to attain an appropriate level of skill (given the unique missions, policies and workload of the agency) in each Contract Management duty represented by a Unit of Instruction in the FAI Contract Specialist Workbook. These may be supplemented with additional contracting duties and tasks by the agency head. Alternative means may be used for these individuals to demonstrate their competence to perform required duties (e.g. through practicums, equivalency examinations, or managerial reviews of an individual's current level of skill in each duty);

b. Requires civilian and uniformed personnel appointed under Section 1.6 of the Federal Acquisition Regulation (FAR) as contracting officers with authority to award or administer contracts above the small purchase threshold to complete course work and related on-the-job training necessary to attain an appropriate level of skill (given the unique missions, policies, and workload of the agency) in each Contract Management duty represented by a Unit of Instruction in the FAI Contract Specialist Workbook, or otherwise demonstrate their competence to perform those duties through alternative means.

c. Requires personnel in the purchasing occupational series (General Schedule Series 1105), other civilian and uniformed personnel performing purchasing duties, and individuals with contracting authority at or under the small purchase threshold, or with authority to place delivery orders at any dollar level, to complete training in duties related to making small purchases under FAR part 13 and placing delivery orders;

d. Provides for a system of certifying and reporting the completion of all required courses and on-the-job training;

e. Encourages self-development activities of contracting personnel to stay current with the acquisition knowledge base for professional growth throughout their careers, and

f. Directs the Senior Procurement Executive to designate a procurement career manager with authority for agency-wide policy and oversight responsibility for the procurement career management program, including authority and responsibility for working in cooperation with other agencies through the FAI to make the most effective and efficient use of existing instructional material or facilities and minimize duplication of effort in the development and delivery of training and education.

5. *Implementation.* The FAI is developing instructional materials in the contracting competencies to support comprehensive training in formal classroom settings as well as at the work site and through on-the-job training. FAI training courses now available or under development include "Introduction to Contracting," "Procurement Planning," "Sealed Bidding," "Negotiation Process," "Price Analysis," "Cost Analysis," "Advanced Cost or Price Analysis," "Basic Contract Administration," "Construction Contracting," "Contracting for Federal Information Processing Resources," and "Source Selection." These courses will be offered by the General Services Administration Interagency Training Center.

As courses are completed, the FAI will provide the instructional materials for that course (in hard copy or electronic forms) to agencies for incorporation (in whole or in part, with any necessary agency-specific tailoring) in their respective courses. An agency may modify the *Contract Specialist Workbook,* and associated FAI instructional materials, to reflect the unique missions, policies and workload of the agency.

The Director of FAI shall further assist agency training programs through the following actions:

- Maintain the Contract Specialist Workbook as a Government-wide standard for the professional development of contracting personnel, and distribute copies to Procurement Executives.
- Recommend minimum Government-wide training requirements and goals to the Administrator, OFPP.
- Assist agencies, and encourage cooperation among agencies, in the development of instructional materials to implement the training requirements of Section 4 above.
- Advise the Administrator, OFPP, on the effectiveness of Federal training programs to develop competence in the performance of acquisition-related duties and tasks.
- Establish joint programs with other Federal procurement training facilities or contracting activities under Section 4103 of Title 5, United States Code, to help Federal agencies implement provisions of this Policy Letter.
- Assist colleges and universities in establishing procurement and acquisition courses as part of continuing education, associate, baccalaureate, and graduate programs.
- Review the acquisition courses of colleges and universities, identify and document the levels of learning attained in contracting duties and tasks, and recommend academic courses to Procurement Executives that may be substituted for Government training in those duties and tasks.

6. *Reporting Requirements.* Within 90 days of the effective date of this Policy Letter, the Senior Procurement Executive of each agency is to advise the Administrator, OFPP, of the agency's procurement career management program required by 41 U.S.C. 414(4) and implementing Section 4 of this letter, including:

(1) A description of the agency's plan for prescribing and providing the training required;

(2) A description of actions taken or planned to assess the extent to which training courses now provide, or will provide, skill training in the Unites of Instruction of the FAI Contract Specialist Workbook, including the level of skill in each Contract Management duty that the training will be designed to attain;

(3) A description of the agency's system for certifying and reporting the completion of training requirements, and

(4) The name and position of the individual designated under Section 4.f. above.

Periodic reports on the procurement career management program may be requested by the Administrator, OFPP, thereafter.

7. *Federal Acquisition Regulation (FAR) Councils.* The Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council shall conduct a thorough review of the relevant parts of the FAR to (1) assure that no unintended encumbrances to this Policy Letter are contained therein, and (2) that the policies established by this Policy Letter are fully reflected in the FAR within 210 days of the effective date of this Policy Letter. Issuance of final regulations within this 210-day period shall be considered issuance "in a timely manner" as prescribed in 41 U.S.C. 405(b).

8. *Judicial Review.* This Policy Letter is not intended to provide a constitutional or statutory interpretation of any kind, and it is not intended, and should not be construed, to crate any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person. It is intended only to provide policy guidance to agencies in the exercise of their discretion concerning Federal contracting. Thus, this Policy Letter is not intended, and should not be construed, to crate any substantive or procedural basis on which to challenge any agency action or inaction on the ground that such action or inaction was not in accordance with this Policy Letter.

9. *Effective Date.* This Policy Letter is effective 30 days after the date of issuance.

10. *Information.* Questions or inquires about this Policy Letter should be directed to Mr. Wayne Wittig, Deputy Associate Administrator, OFPP, 725 17th Street, NW., Washington, DC 20503, telephone (202) 395–6803.

Allan V. Burman,

Administrator.

Attachment

BILLING CODE 3110–01–M

Attachment

SUMMARY LIST OF CONTRACTING DUTIES

PRESOLICITATION PHASE

DETERMINATION OF NEED	INITIATING THE PROCUREMENT	ANALYSIS OF REQUIREMENT	SOURCING
Determining Needs	**Processing the PR**	**Analyzing Requirements**	**Extent of Competition**
1. Forecasting Requirements	3. Purchase Requests	6. Specifications	9. Sources
2. Acquisition Planning	4. Funding	7. Statements of Work	10. Set-Asides
	Market Research	8. Services	11. 8(a) Procurements
	5. Market Research		12. Competition Requirements
			13. Unsolicited Proposals
			Selection Factors
			14. Lease vs. Purchase
			15. Price Related Factors
			16. Technical Evaluation Factors
			Method and Plan for the Procurement
			17. Method of Procurement
			18. Procurement Planning

SOLICITATION-AWARD PHASE

SOLICITATION	EVALUATION—SEALED BIDDING	EVALUATION—NEGOTIATION	AWARD
Terms and Conditions	**Bid Evaluation**	**Proposal Evaluation**	**Selection for Award**
19. Contract Types	30. Processing Bids	35. Processing Proposals	46. Mistakes in Offers
20. Letter Contracts	31. Bid Acceptance Periods	36. Technical Evaluation	47. Responsibility
21. Contract Financing	32. Late Offers	37. Price Objectives	48. Subcontracting Requirements
22. Use of Government Property and Supply Sources	33. Bid Prices	38. Cost and Pricing Data	49. Preparing Awards
23. Need For Bonds	34. Responsiveness	39. Audits	**Executing Awards**
24. Solicitation Preparation		40. Cost Analysis	50. Award
Soliciting Offers		41. Evaluating Other Terms and Conditions	51. Debriefing
25. Publicizing Proposed Procurements		42. Competitive Range	**Protests**
26. Preaward Inquiries		**Discussions**	52. Protests
27. Prebid/Preproposal Conferences		43. Factfinding	**Fraud and Exclusion**
28. Amending Solicitations		44. Negotiation Strategy	53. Fraud and Exclusion
29. Cancelling Solicitations		45. Conducting Negotiations	

Attachment

SUMMARY LIST OF CONTRACTING DUTIES

POST-AWARD ADMINISTRATION PHASE

START-UP	QUALITY ASSURANCE	PAYMENT & ACCOUNTING	MODIFICATIONS, CLOSEOUT, TERMINATION, & CLAIMS
Planning	**Monitoring and Problem Solving**	**Payment**	**Closeout**
54. Contract Administration Planning	58. Monitoring, Inspection, and Acceptance	64. Limitation of Costs	74. Closeout
55. Post-Award Orientations	59. Delays	65. Payment	**Modifications/Options**
Ordering	60. Stop Work	66. Unallowable Costs	75. Contract Modifications
56. Ordering Against Contracts and Agreements	61. Remedies	67. Assignment of Claims	**Termination**
Subcontracting	**Property**	68. Collecting Contractor Debts	76. Termination
57. Consent to Subcontracts	62. Property Administration	69. Progress Payments	77. Bonds
	Reporting Performance Problems	70. Price and Fee Adjustments	**Claims**
	63. Reporting Performance Problems	**Accounting**	78. Claims
		71. Accounting and Cost Estimating Systems	
		72. Cost Accounting Standards	
		73. Defective Pricing	

SKILL LEVELS

1 Knowledge	Define the duty. Describe its purpose and the standard(s) for performance. Explain when this duty is performed. Test recall of this information.
2 Comprehension	Present both the duty (definition, purpose, standards, and when performed) and every step in accomplishing the duty. Provide information to perform each step, without actually having trainee apply information. Test for comprehension.
3 Application	Present both the duty (definition, purpose, standards, and when performed) and every step in accomplishing the duty. Provide information to perform each step. Through simulations and other such exercises, require trainee to perform those steps necessary to evaluate the trainee's ability to perform the duty.
4 Analysis	Review the duty and steps in performance. Have trainee solve more complex problems than at application level.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 30858; File No. 265-17]

Market Oversight and Financial Services Advisory Committee

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting of the Securities and Exchange Commission Market Oversight and Financial Services Advisory Committee.

SUMMARY: This is to give public notice that the Securities and Exchange Commission Market Oversight and Financial Services Advisory Committee will conduct a meeting on July 2, 1992, at 9 a.m. in room 1C30 at the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC. The meeting will be open to the public. This notice also serves to invite the public to submit written comments to the Committee.

ADDRESSES: Written comments should be submitted in triplicate and should refer to File No. 265-17. Comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Thomas Selman, Special Counsel, or Mary Burke Patterson, Senior Counsel, (202) 272-2428, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committe Act, 5 U.S.C. app. 2, 10(a), and the regulations thereunder, the Chairman has ordered publication of this notice that the Securities and Exchange Commission Market Oversight and Financial Services Advisory Committee will conduct a meeting on July 2, 1992, at the Secuities and Exchange Commission, 450 Fifth Street, NW., Washington, DC, beginning at 9 a.m. This meeting will be open to the public. This will be the third meeting of the Advisory Committee. The purpose of the meeting will be to discuss regulatory review initiatives and legislative proposals to improve the regulation of financial markets.

The Chairman has determined that this meeting should be held sooner than fifteen days after publication of this notice in the Federal Register in view of prior scheduling commitments of the Committee members and Commissioners.

Dated: June 25, 1992.

Jonathan G. Katz,

Advisory Committee Management Officer.

[FR Doc. 82-15449 Filed 6-30-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30854; File No. SR-MSRB-92-4]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board; Relating to Forms G-36 (OS) and G-36 (ARD)

June 24, 1992.

Notice is hereby given that on March 30, 1992, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change for immediate effectiveness, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1) and rule 19b-4 thereunder. The proposed rule filing is described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Board has designated this proposal as concerned solely with the administration of the Board under section 19(b)(3)(A) of the Act, which renders the filing effective upon Commission receipt. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Municipal Securities Rulemaking Board ("Board") is filing amendments to Form G-36 (OS) and Form G-36 (ARD) (hereafter referred to as "the proposed rule change"). The proposed rule change revises Form G-36 (OS) to collect certain additional information necessary for accurate invoicing of underwriting assessments. Other technical changes also were made to Form G-36 (OS) as well as technical changes to Form G-36 (ARD). The Board requests that the Commission delay the effectiveness of the proposed rule change until July 1, 1992, the date that the recent amendments to rule A-13, on underwriting assessments, will become effective.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) The Board has determined that, to improve its accounting system, it will base its receivables for underwriting assessments on the official statements received by the Board pursuant to rule G-36.[1] By using official statements, and the associated Forms G-36 (OS) that must be submitted with the official statements, the Board will be able to invoice underwriters directly for underwriting assessments and will be able to maintain a more accurate accounting of underwriting assessments that are due to the Board. Because of the new procedure for collecting and accounting for underwriting assessments, on March 10, 1992, the Board filed an amendment to rule A-13 that adjusts the scope of primary offerings subject to that rule so that it will be more consistent with the scope of primary offerings under rule G-36.

The proposed rule change revises Form G-36 (OS) to collect certain additional information necessary for accurate invoicing of underwriters to indicate: (i) The existence of a put option within nine months of the offering; (ii) the existence of a put option within two years of the offering; and (iii) that the offering is a "limited placement" under SEC rule 15c2-12. This information is keyed to the requirements of rule A-13, as recently amended, and will help to ensure that the underwriter is sent an invoice that accurately reflects the underwriting assessment (if any) that is due.

Other technical changes also were made to Form G-36 (OS) based on the Board's experience in processing documents received under rule G-36. These include numbering all lines to permit more efficient assistance to those who call the Board with questions about the form, revising the description of issue(s) line (line 2) and the dated date(s) line (line 4) to permit more than one entry, and adding line 8, on par amount underwritten, for those instances (*e.g.*, short term notes) in which an underwriter buys part of the

[1] In addition to other information, rule G-36 requires underwriters to send to the Board official statements and other information on most new municipal securities issues.

offering without knowledge of who or how many underwriters bought the remainder.[2] The Board deleted the reference to the number of series in the official statement from Form G–36 (OS) because this information was not found to be useful. Line 13 also has been added to require a responsible party to state affirmatively that the document sent is a final official statement relating to a party offering of municipal securities. This will help ensure that the Board receives the correct document. Finally, line 17 has been added to ensure that the CUSIP numbers required by rule G–36 are included on the form and to ensure that underwriters are aware that rule G–34 requires that CUSIP numbers be assigned to all issues which are eligible for CUSIP number assignment. CUSIP numbers are used whenever possible in indexing official statements received under rule G–36 and, currently, if CUSIP numbers are not included, the forms and official statements are returned to the underwriter for clarification. Line 17 may eliminate the need for some of this correspondence.

The proposed rule change also included technical changes to Form G–36 (ARD). This form must be sent to the Board under rule G–36 when an advance refunding document (*i.e.*, escrow agreement) is provided. All lines on Form G–36 (ARD) have been numbered to permit more efficient assistance to those who call the Board with questions about the form. On line 4, the submitter is to indicate whether the issue is partially or entirely refunded. This information is important to users of the Municipal Securities Information Library,™ or MSIL,™ system [3] because outstanding issues that are partially refunded often receive new CUSIP numbers, while entire refunded issues, generally do not. Line 8, regarding refunding issue(s), has been expanded to permit more than one refunding issue per document and language has been added explaining that submission of advance refunding documents for current refundings is not required. Finally, information concerning CUSIP numbers is more specific. The current Form G–36 (ARD) asks for old and new CUSIP numbers, whereas the new form asks for the original CUSIP numbers assigned to the issue being refunded, the new CUSIP numbers for the refunded issue (the partially refunded portion of the issue, if applicable) and CUSIP numbers for the refunding issue(s).

(2) The Board has adopted the proposed rule change pursuant to sections 15B(b)(2)(C) and 15B(b)(2)(I) of the Securities Exchange Act of 1934, as amended (the "Act"). Section 15(B)(2)(C) authorizes the Board to adopt rules designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating transactions in municipal securities and, in general, to protect investors and the public interest. In addition, section 15B(b)(2)(I) authorizes the Board to adopt rules which provide for the operation and administration of the Board.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it applies equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4 because it is concerned solely with the administration of the Board and is consistent with the public interest. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 22, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–15381 Filed 6–30–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–30856; File No. SR–MSRB–92–5]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board; Relating to Transactions in Municipal Collateralized Mortgage Obligations

June 24, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 16, 1992, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change for immediate effectiveness pursuant to section 19(b)(3)(A), as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Board has designated this proposal as constituting an interpretation respecting the meaning or enforcement of an existing rule of the self-regulatory organization under section 19(b)(3)(A) of the Act, which renders the filing effective upon Commission receipt. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Municipal Securities Rulemaking Board ("Board") is filing an interpretation of rule G–15 (hereafter referred to as "the proposed rule change") concerning transactions in

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[2] This line is needed for billing purposes and to track those who fulfilled the requirements of rule G–36. Each underwriter in such a case should submit an official statement.

[3] Municipal Securities Information Library and MSIL are trademarks of the Board.

municipal collateralized mortgage obligations ("CMOs"). The proposed rule change clarifies that the requirement of rule G–15(a) to state yield on confirmations does not apply to municipal collateralized mortgage obligations.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B) and (C) below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) The Board received an inquiry concerning taxable CMOs issued by municipal issuers. The Board was asked whether Board rules applied to transactions in these issues and, if so, how yield should be stated on confirmations. Because the issuers of these securities are agencies or instrumentalities of county governments, it would appear that the CMOs are municipal securities for purposes of Board rules. As discussed below, the Board does not believe that a yield should be stated on confirmations of these "municipal CMOs."

At least some municipal CMOs have been marketed to retail accounts and the proposed rule change reminds dealers of the general fair practice requirements of Board rules as they relate to customer transactions in municipal CMOs. Fair practice duties to customers include: (i) The requirement of rule G–17 to disclose all material facts about a transaction; (ii) the requirement of rule G–19 to make appropriate suitability determinations for recommendations to customers; and (iii) the requirement of rule G–30 to provide a fair and reasonable price for customer transactions. The Board previously has stated that, under rule G–17, a dealer must disclose a principal prepayment feature to a customer and also must ensure that the customer is informed of the amount of principal that will be delivered.[1] The proposed rule change includes the points noted above and also an interpretation of rule G–17 that requires dealers to inform customers: (i) Of the likelihood of principal prepayment on a municipal CMO; and (ii) that principal may be fully paid to the CMO holder prior to the stated maturity date.

The proposed rule change also specifically notes that the requirement of rule G–15(a) to state yield on confirmations does not apply to municipal CMOs. The "yield" normally required on confirmations by rule G–15 is based on the assumption that principal will be repaid in full at a certain time in the future, *i.e.*, at maturity or on a call date. It is, of course, mathematically possible to compute a yield for an instrument that makes payments of principal during the life of the security, but certain assumptions must be made about the timing and amounts of principal prepayments. Although estimates of CMO principal prepayment speed are commonly used (based on the past experience of the specific mortgage pool and a formula developed by the Public Securities Association), the actual prepayment depends on future economic conditions. Therefore, the Board interprets rule G–15 not to require that a yield be stated on the confirmation and, if a yield is stated, that the method of calculation also be clearly stated on the confirmation.

(2) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(C) of the Act, which directs the Board to propose and adopt rules which are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board believes that the proposed rule change will not have any impact on competition since it applies equally to all brokers, dealers and municipal securities dealers.

[1] Notice Concerning Securities that Prepay Principal, MSRB Reports, Vol. 11, No. 1 (March 1991) at 9.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Board has not solicited or received comments on the proposed rule change. As noted previously, the Board's consideration of the proposed rule change was prompted by an interpretive inquiry.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of rule 19b–4 thereunder. At any time within 60 days of filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 22, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

FR Doc. 92–15382 Filed 6–30–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34-30855; File No. SR-PSE-92-08]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change, Relating to Designating PSE Technology Index Options as European-Style Options

June 24, 1992.

On February 12, 1992, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend PSE rules 7.1 and 7.5 to permit options on the PSE Technology Index to be exercised in the same manner as other European-style index options.[3] In addition, the proposal amends the list of definitions contained in the PSE's options rules to clarify the meanings of "European-style" and "American-style" options.[4]

The proposed rule change was published for comment in Securities Exchange Act Release No. 30456 (March 10, 1992), 57 FR 9583 (March 19, 1992). No comments were received on the proposed rule change.

The proposal amends the PSE rules on index options to permit options on the PSE Technology Index to be exercised in the same manner as other European-style index options. In addition, for clarification purposes, the proposal adds four entries to its list of definitions contained in the PSE rules on index options. These entries provide the definition for "European-style options and index options" and "American-style options and index options."

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section (6)(b)(5). Specifically, the Commission finds the proposal to clarify that Technology Index options are European-style options will serve to eliminate any investor confusion as to whether or not Technology Index options are European-style, thereby, protecting investors and promoting the public interest.

In addition, the Commission finds that the PSE proposal to clarify the meaning of "European-style" and "American-style" options will further serve to avoid any investor confusion concerning what is meant by American-style or European-style options.

It is Therefore Ordered, Pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change (SR-PSE-92-08) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-15450 Filed 6-30-92; 8:45 am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1991).

[3] On November 26, 1991, the Commission approved a PSE proposal to re-commence options trading on a European-style Technology Index. See Securities Exchange Act Release No. 29994 (November 26, 1991), 56 FR 63536. The PSE, however, has not yet recommenced trading options on the Technology Index. The rule change was submitted because current PSE rules did not designate the appropriate exercise procedures for options on the European-style Technology Index.

[4] Specifically, under the proposal, European-style options will be defined as option contracts that can be exercised only on the last business day prior to the day they expire. American-style options will be defined as options contracts that can be exercised on any business day prior to expiration.

[5] 15 U.S.C. 78s(b)(2) (1988).

[6] 17 CFR 200.30-3(a)(12) (1991).

STATE DEPARTMENT

[Public Notice 1643]

Overseas Security Advisory Council; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on Wednesday, July 15, 1992 at 8:30 a.m. at the Fairmont Hotel, San Francisco, California. Pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b (c) (1) and (4), it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda calls for the discussion of classified and corporate proprietary/security information as well as private sector physical and procedural security policies and protective programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Marsha Thurman, Overseas Security Advisory Council, Department of State, Washington, DC 20522-1003, phone: 703/204-6185

Dated: June 19, 1992.

Clark Dittmer,

Director of the Diplomatic Security Service.

[FR Doc. 92-15376 Filed 6-30-92; 8:45 am]

BILLING CODE 4710-24-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

U.S.-Colombia Combination Service Case

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Order Instituting Proceeding, Inviting Applications for Certificate Authority, Docket 48216, Order 92-6-44.

SUMMARY: The Department is instituting the *U.S.-Colombia Combination Service Case*, Docket 48216, to select one primary and one backup carrier to provide scheduled combination service between a point or points in the United States and the coterminal points Barranquilla, Bogota, Cali and Cartagena, Colombia via intermediate points, and beyond Colombia to points in the Western Hemisphere. The Department has decided to invite all U.S. carriers interested in serving the U.S.-Colombia market to file applications for the certificate authority at issue in this proceeding. The authority to be awarded in this case will be in the form of temporary, experimental certificates of public convenience and necessity under section 401(d)(8) of the Federal Aviation Act, as amended. The duration of the authority will be five years for the primary carrier and one year for the backup carrier, unless the latter authority is activated during that time, in which case, it will continue in effect for five years. The Department has determined that this case will be decided by using written, non-oral procedures and that the Department's Senior Career Official will be the DOT decisionmaker for the proceeding. The Department has also decided to dismiss exemption applications filed by Continental Airlines, Inc. and United Air Lines, Inc. for the U.S.-Colombia authority.

DATES: Applications, amended applications, motions to consolidate, and petitions for reconsideration are due: JULY 17, 1992. Answers to the foregoing are due: JULY 13, 1992.

ADDRESSES: All documents in this proceeding, with appropriate filing copies, should be filed in Docket 48216, addressed to the OST Docket Section, Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW., room 4107, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Linda Senese, U.S. Air Carrier Licensing Division, room 6412, U.S. Department of Transportation, 400 Seventh Street, SW.,

Washington, DC 20590. Telephone (202) 355–2390.

Dated: June 25, 1992.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 92–15421 Filed 6–30–92; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF THE TREASURY

[Supplement to Department Circular—Public Debt Series—No. 20–92]

Treasury Notes, Series AB–1994

Washington, June 24, 1992.

The Secretary announced on June 23, 1992, that the interest rate on the notes designated Series AB–1994, described in Department Circular—Public Debt Series—No. 20–92 dated June 17, 1992, will be 5 percent. Interest on the notes will be payable at the rate of 5 percent per annum.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 92–15441 Filed 6–30–92; 8:45 am]

BILLING CODE 4810–40–M

[Supplement to Department Circular—Public Debt Series—No. 21–92]

Treasury Notes, Series N–1997

Washington, June 25, 1992.

The Secretary announced on June 24, 1992, that the interest rate on the notes designated Series N–1997, described in Department Circular—Public Debt Series—No. 21–92 dated June 17, 1992, will be 6⅜ percent. Interest on the notes will be payable at the rate of 6⅜ percent per annum.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 92–15442 Filed 6–30–92; 8:45 am]

BILLING CODE 4810–40–M

Internal Revenue Service

Information Reporting Program Advisory Committee

AGENCY: Internal Revenue Service, Treasury.

ACTION: Announcement of open membership application period for the Information Reporting Program Advisory Committee.

SUMMARY: In 1991 the Internal Revenue Service (IRS) established the Information Reporting Program Advisory Committee (IRPAC). The primary purpose of IRPAC is to provide an organized public forum for discussion of relevant information reporting issues between the officials of the IRS and representatives of the payer community. IRPAC offers constructive observations about current or proposed policies, programs, and procedures and, when necessary, suggests ways to improve the operation of the Information Reporting Program. IRPAC is currently comprised of 15 representatives from various segments of the private sector payer community whose appointments to IRPAC expire at the end of 1993. Additional members will be selected for two-year terms beginning in January 1993.

SUPPLEMENTARY INFORMATION: IRPAC reports to the executive Director, Information Reporting Program (IRP), who is the executive responsible for information reporting and is charged with its system-wide planning and improvement. IRPAC is instrumental in providing advice to enhance the IRP Program. Increasing participation by external stakeholders in the planning and improvement of the tax system will help achieve the goals of increasing voluntary compliance and reduction of burden. IRPAC members are not paid for their time or services, but consistent with Federal regulations, they will be reimbursed for their travel and lodging expenses to attend a two-day meeting twice each year.

The IRS is interested in representation from different areas of the payer community (e.g., small business, real estate, insurance, data processing, etc.). Anyone wishing to be considered for membership on IRPAC should so advise the IRS. Please complete the following questionnaire and forward it to Ms. Kate LaBuda of the IRP Planning Staff, at the address below.

ADDRESSES: Internal Revenue Service, EX:I:P, 1111 Constitution Avenue, NW., room 2013, Washington, DC 20224.

DATES: Completed questionnaires should be received by IRS by July 31, 1992. Applications received after this date will not be considered. An acknowledgment letter will be sent upon receipt of each application.

FOR FURTHER INFORMATION CONTACT: Kate LaBuda at 202/566–8542 (not a toll-free number).

Dated: June 24, 1992.

Susan Hinton,

Staff Chief, Planning and Management Staff, Information Reporting Program.

Information Reporting Program Advisory Committee

Membership Application Questionnaire

The following questions must be answered by anyone interested in becoming a member of the Information Reporting Program Advisory Committee (IRPAC). Applications must be received in that office by July 31, 1992. Those received after this date will not be considered. All applications received will be acknowledged. Questions should be directed to Kate LaBuda at 202/566–8542, and your reply should be returned to: Ms. Kate LaBuda, EX:I:P, Information Reporting Program Planning Staff, Internal Revenue Service, room 2013, 1111 Constitution Avenue, NW., Washington, DC 20224.

1. Name:
2. Title:
3. Company or Organization Name:
4. Business Address:
5. Business Phone:
6. Home Address:
7. Home Phone:
8. If you are applying on behalf of an organization or association other than your employer, please state the name, and address of that organization. Also, provide a letter of reference from that organization stating that you are nominated on their behalf. This letter should contain the name of a contact and this contact's phone number.
9. List professional credentials (e.g., Ph.D., CPA, Enrolled Agent, Attorney, Accountant, etc.)
10. Check the *one* segment of the Information Reporting Program (IRP) payer community with which the organization that you are representing, most closely identified:

_____Large Financial Institution
_____Small Financial Institution
_____Real Estate
_____Data Processing
_____Insurance
_____Securities
_____Payroll
_____State & Local Governments
_____Corporate Compliance
_____Small Business Compliance
_____General Compliance
_____Employee Plans
_____Trust Company
_____Corporate Transfer Agent/ Utilities
_____Other (Please specify. _____)

11. List the number of years of IRP-related experience you have, and specific sources of this IRP experience.

(Account for all years of IRP experience claimed.)

12. Identify organizations to which you belong and any relevant leadership positions you have held.

13. List any previous IRS employment (please state position/s, title/s, and length of time in each position):

14. Please propose two topic ideas that you feel would be appropriate for discussion by IRPAC. Include a short description (two sentences) of each topic.

(The following three items are required for an FBI Name Check.)

15. Date of Birth:

16. Place of Birth:

17. Other names ever used:

(The following items are required for an IRS Tax Check. Please note that a tax check is not a tax audit.)

I hereby authorize the Internal Revenue Service to perform the standard Federal Advisory Committee member tax check, (pursuant to 26 U.S.C. 6103; 5 U.S.C. 1303; Executive Orders 9397, 11222, 10450; CFR 5.2; 31 CFR part O, Treasury Department Order Nos. 82 (Revised) and 150–87) and to provide this information to the Assistant Secretary (Administration) of the Treasury Department.

I understand that the purpose of such tax check and income tax filing record check is to promote public confidence in the integrity of the Treasury Department and its administration of the Federal tax system. I have been advised that my Social Security Number is required to identify my tax records accurately. I also understand that this tax check must be completed prior to my appointment to this Federal Advisory Committee and I hereby voluntarily provide the following information:

18. Social Security Number:

19. Spouse's name and SSN (if married and filing jointly):

20. Name(s) and address(es) under which tax returns were filed for the past three years.

21. Please sign and date this portion of the questionnaire.

[FR Doc. 92–15368 Filed 6–30–92; 8:45 am]

BILLING CODE 4830–01–M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980, as Amended by Public Law 99–591; Information Collection Under Review by the Office of Management and Budget (OMB)

AGENCY: Tennessee Valley Authority.

ACTION: Information Collection Under Review by the Office of Management and Budget (OMB).

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), as amended by Public Law 99–591.

Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be made within 30 days directly to the Agency Clearance Officer and also to the Desk Officer for the Tennessee Valley Authority, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; Telephone: (202) 395–3084.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 1101 Market Street (MR 2F), Chattanooga, Tn 37402–2801; (615) 751–2523.

Type of Request: Regular submission.

Title of Information Collection: Foreign Line Crossing Data.

Frequency of Use: On occasion.

Type of Affected Public: State or local governments, small businesses or organizations, businesses or other for-profit.

Small Businesses or organizations Affected: Yes

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 135.

Estimated Total Annual Burden Hours: 1350.

Estimated Average Burden Hours Per Response: 10.

Need For and Use of Information: When a company wishes to build a line over or under a power transmission line owned by TVA, TVA must review certain engineering data to ensure reliability of the power system and to protect the public by ensuring that the crossing meets the National Electrical Safety Code. The Information collection provides such engineering data.

Charles E. Price,

Interim Vice President, Information Services, Interim Senior Agency Official.

[FR Doc. 92–15408 Filed 6–30–92; 8:45 am]

BILLING CODE 8120–08–M

United States Information Agency

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Ellsworth Kelly: The Years in France, 1948–1954" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural signficance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, DC from on or about November 1, 1992, to on or about January 24, 1993 is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: June 25, 1992.

Alberto J. Mora

General Counsel.

[FR Doc. 92–15395 Filed 6–30–92; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

U.S. Advisory Commission on Public Diplomacy Meeting

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on July 8, in room 600, 301 4th Street, SW., Washington, DC from 10:30–12:30 p.m.

The Commission will meet with Mr. Chase Untermeyer, Associate Director, Bureau of Broadcasting and Director, Voice of America to discuss U.S. government international broadcasting. The Commission will also meet with Mr. Eugene P. Kopp, Deputy Director, U.S. Information Agency to discuss matters

[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202/619–5078, and the address is room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

dealing with USIA's budget and program policies.

FOR FURTHER INFORMATION CONTACT: Please call Gloria Kalamets, (202) 619–4468 for further information:

Dated: June 26, 1992.

Rose Royal,

Management Analyst Federal Register Liaison.

[FR Doc. 92–15474 Filed 6–30–92; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 127
Wednesday, July 1, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 2:00 p.m. (Eastern Time) Tuesday, July 7, 1992.

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 "L" Street, N.W., Washington, D.C. 20507.

STATUS: Part of the Meeting will be Open to the Public and Part will be Closed to the Public.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Vote(s).
2. A Report on Commission Operations—ADA Implementation.
3. FY 1993 State & Local Contracting Principles.
4. Proposed Enforcement Guidance on Recent Developments in Disparate Treatment Theory.
5. Proposed Enforcement Guidance on Compensatory and Punitive Damages Available under Section 102 of the Civil Rights Act of 1991.

Closed Session

1. Litigation Authorization: General Counsel Recommendations.

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 663-7100 (voice) and (202) 663-4494 (TTD) at any time for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663-7100.

Dated: June 25, 1992.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 92-15608 Filed 2-11-92; 8:45 am]
BILLING CODE 6750-06-M

Corrections

Federal Register
Vol. 57, No. 127
Wednesday, July 1, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 92-069-1]

Availability of Environmental Assessments and Findings of No Significant Impact Relative to Issuance of Permits to Field Test Genetically Engineered Organisms

Correction

In notice document 92-12039 beginning on page 21763 in the issue of Friday, May 22, 1992, make the following correction:

On page 21764, in the first column of the table, in the third and fifth entries, "91–" should read "92–".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP92-156-000]

Natural Gas Pipeline Co. of America; Filing to Institute Exit Fee

Correction

In notice document 92-10373 beginning on page 19291, in the issue of Tuesday, May 5, 1992, make the following correction:

On page 19291, in the third column, above the heading the Docket number should appear as above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 90-39-NG, et al.]

Public Service Department, the City of Burbank, California et al.; Notice of Order Granting Blanket Authorizations To Import Natural Gas From Canada and Record of Decision

Correction

In notice document 92-12079 beginning on page 21784 in the issue of Friday, May 22, 1992, make the following correction:

On page 21784, the material in the first column, from the fourth line from the bottom of the page to the third line of the second column of the same page was printed in error. It should appear as set forth below:

"Docket No. 90-43-NG); Pancontinental Oil Ltd. (FE Docket No.90-45-NG); Pacific Gas and Electric Company (FE Docket No. 90-46-NG); San Diego Gas & Electric Company (FE Docket No. 90-47-NG); and BP Resources Canada Limited (FE Docket No. 90-49-NG)."

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 2, 5, 10, 310, 314, 320, and 443

[Docket No. 85N-0214]

RIN 0905-AB63

Abbreviated New Drug Application Regulations

Correction

In rule document 92-9320 beginning on page 17950 in the issue of Tuesday, April 28, 1992, make the following corrections:

1. On page 17954, in the 2d column, in the 1st complete paragraph, insert "reports" after "reaction".

2. On page 17955, in the 1st column, in paragraph 11., in the 14th line, "(d)" should read "(b)".

3. On page 17958, in the 3d column, in the 1st complete paragraph, in the 21st line, "that" should read "the".

4. On page 17959:

a. In the 1st column, in the 2d complete paragraph, in the 24th line, "of" should read "for".

b. In the second column, in the fifth line, after "ingredient" insert "is an active ingedient".

c. In the second column, in the eighth line, "difference" should read "different".

5. On page 17962, in the first column, in the first complete paragraph, in #the third line, "§ 314.194(a)(8)(iv)" should read "§ 314.94(a)(8)(iv)".

6. On page 17969, in the first column, in the second complete paragraph, in the eighth line, "authorizes" is misspelled.

7. On page 17970, in the 1st column, in the 2d complete paragraph, in the 13th line, "safe" should read "unsafe".

8. On page 17972, in the second column, in the third complete paragraph, in the last line, "drugs." was misspelled.

9. On page 17978, in the second column:

a. In the first complete paragraph, in the sixth line from the bottom, "equivalent" is misspelled.

b. In the fourth complete paragraph, in the eighth line, insert "that the studies will not result in drug levels or drug" before "effects".

Subpart D [Corrected]

10. On page 17981, in the table of contents, in the second column, in the ninth line, "and" should read "an".

§ 314.94 [Corrected]

11. On page 17986, in the first column, in § 314.94(a)(9)(iii), in the last line, "for" should read "of".

§ 314.101 [Corrected]

12. On page 17988, in the first column:

a. In § 314.101(d)(3), in the second line, "because" is misspelled.

b. In § 314.101(d)(4), in the third line, "address" should read "addresses".

§ 314.102 [Corrected]

13. On the same page, in the third column, in § 314.102(b), in the third line, "agency" should read "agency's".

§ 314.122 [Corrected]

14. On page 17991, in the first column, in § 314.122(b), in the last line, insert "the" before "procedures".

§ 314.127 [Corrected]

15. On the same page, in § 314.127(a)(3)(iii)(A)(*1*), in the first line, "ingredient" should read "ingredients".

§ 320.24 [Corrected]

16. On page 18000, in the 1st column, in § 320.24(b)(4), in the 22d line, "This" is misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 807

[Docket No. 91N-0388]

Medical Dvices; Substantial Eqivalence; 510(k) Summaries and 510(k) Statements; Class III Summaries; Confidentiality of Information

Correction

In rule document 92-9797 beginning on page 18062 in the issue of Tuesday, April 28, 1992, make the following correction:

§ 807.87 [Corrected]

On page 18066, in the second column, in § 807.87(i)(2), in the first line, "on" should read "no".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-92-4212-14; N-55763]

Non-Competitive Sale of Public Lands in Clark County, NV; Notice of Realty Action

Correction

In notice document 92-13401 appearing on page 24810 in the issue of Thursday, June 11, 1992, make the following correction:

In the second column, in the first line of the land description, "64E.," should read "63E.,"

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30527; File No. SR-MSRB-92-3]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board; Relating to Underwriting Assessments

Correction

In notice document 92-7813 beginning on page 11622 in the issue of Monday, April 6, 1992, make the following correction:

On page 11622, in the third column, the file number is corrected to read as above.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 155

[CGD 91-034]

RIN 2115-AD81

Vessel Response Plans

Correction

In proposed rule document 92-14283 beginning on page 27514 in the issue of Friday, June 19, 1992, make the following corrections:

Appendix B to Part 155 [Corrected]

On page 27553, in Appendix B to part 155:

1. In Table 3, in the first column, in the first entry, "1. Non-light persistent oils" should read "1. Non-persistent oils".

2. In the same table, in the fourth column (Oil on shore), in the first entry, "80" should read "10"; and in the fifth column (Natural dissipation), "10" should read "80".

3. In Table 4, in the second column, the third entry should read "3.0".

BILLING CODE 1505-01-D

federal register

Wednesday
July 1, 1992

Part II

Department of the Treasury

Fiscal Service

Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies; Notice

92 15369

4810-35
4-00236

DEPARTMENT OF THE TREASURY

FISCAL SERVICE

(Dept. Circular 570; 1992 Revision)

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE SURETIES ON FEDERAL BONDS AND AS ACCEPTABLE REINSURING COMPANIES

Effective July 1, 1992

This Circular is published annually, as of July 1, solely for the information of Federal bond-approving officers and persons required to give bonds to the United States. Copies of the Circular, interim changes and other information pertinent to Federal sureties may be obtained from the Surety Bond Branch, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (FTS/202) 874-6850. Interim changes are published in the FEDERAL REGISTER as they occur. For the most current list of Treasury authorized companies, dial into our Public Bulletin Board system at (FTS/202) 874-7214.

The following companies have complied with the law and the regulations of the Department of the Treasury and are acceptable as sureties and reinsurers on Federal bonds under Title 31 of the United States Code, Sections 9304 to 9308 [See Note (a)].

Diane E. Clark
Assistant Commissioner, Financial Information
Financial Management Service

IMPORTANT INFORMATION IS CONTAINED IN THE NOTES AT THE END OF THIS CIRCULAR. PLEASE READ THE NOTES CAREFULLY.

ACCELERATION NATIONAL INSURANCE COMPANY. BUSINESS ADDRESS: 475 Metro Place North, P.O. Box 7000, Dublin, OH 43017-0701. UNDERWRITING LIMITATION b/: $1,331,000. SURETY LICENSES c/: AL, AZ, CO, CT, DC, FL, GA, HI, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, TN, TX, VA, WV, WI. INCORPORATED IN: Ohio.

Acceptance Insurance Company. BUSINESS ADDRESS: 222 South 15th Street, Suite 600 North, Omaha, NE 68102. UNDERWRITING LIMITATION b/: $2,671,000. SURETY LICENSES c/: AZ, CO, IA, KY, MI, NE, ND, OH, TN. INCORPORATED IN: NEBRASKA.

ACCREDITED SURETY AND CASUALTY COMPANY, INC. BUSINESS ADDRESS: P.O. Box 568529, Orlando, FL 32856-8529. UNDERWRITING LIMITATION b/: $534,000. SURETY LICENSES c/: AL, AR, FL, GA, IN, LA, MD, MS, VA. INCORPORATED IN: Florida.

ACSTAR INSURANCE COMPANY. BUSINESS ADDRESS: 233 Main Street, P.O. Box 2350, New Britain, CT 06050-2350. UNDERWRITING LIMITATION b/: $1,285,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Aetna Casualty & Surety Company of America. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, CT 06156. UNDERWRITING LIMITATION b/: $15,602,000. SURETY LICENSES c/: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Aetna Casualty and Surety Company (The). BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, CT 06156. UNDERWRITING LIMITATION b/: $191,385,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Aetna Casualty and Surety Company of Illinois. BUSINESS ADDRESS: 1020 31st Street, Downers Grove, IL 60515. UNDERWRITING LIMITATION b/: $25,107,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

See Footnotes at end of Circular.

Aetna Casualty Company of Connecticut. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, CT 06156. UNDERWRITING LIMITATION b/: $4,382,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Aetna Commercial Insurance Company. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, CT 06156. UNDERWRITING LIMITATION b/: $4,485,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Aetna Life and Casualty Company. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, CT 06156. UNDERWRITING LIMITATION b/: $424,540,000. SURETY LICENSES c/: CT, DC, PA. INCORPORATED IN: Connecticut.

Affiliated FM Insurance Company. BUSINESS ADDRESS: P.O. Box 7500, Johnston, RI 02919. UNDERWRITING LIMITATION b/: $5,278,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

Alaska Pacific Assurance Company. BUSINESS ADDRESS: 2525 "C" Street, SUITE: 400, Anchorage, AK 99503. UNDERWRITING LIMITATION b/: $2,610,000. SURETY LICENSES c/: AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, OH, OR, PA, RI, SC, SD, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Alaska.

Allegheny Mutual Casualty Company. BUSINESS ADDRESS: P.O. Box 1116, Meadville, PA 16335-7116. UNDERWRITING LIMITATION b/: $582,000. SURETY LICENSES c/: DC, FL, IL, IN, LA, MD, MI, NJ, OH, OK, PA, TN, TX, WI. INCORPORATED IN: Pennsylvania.

Allendale Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 7500, Johnston, RI 02919. UNDERWRITING LIMITATION b/: $67,805,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

See Footnotes at end of Circular.

Alliance Assurance Company of America.1/ BUSINESS ADDRESS: 10 East 50th Street 27th Floor, New York, NY 10022. UNDERWRITING LIMITATION b/: $9,557,000. SURETY LICENSES c/: IN, KY, ME. INCORPORATED IN: New York.

Allied Mutual Insurance Company. BUSINESS ADDRESS: P.O. Box 974, Des Moines, IA 50304. UNDERWRITING LIMITATION b/: $10,151,000. SURETY LICENSES c/: AZ, AR, CA, CO, DC, ID, IL, IN, IA, KS, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Iowa.

Allstate Insurance Company. BUSINESS ADDRESS: Allstate Plaza, Northbrook, IL 60062. UNDERWRITING LIMITATION b/: $542,174,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

AMCO Insurance Company. BUSINESS ADDRESS: 701 Fifth Avenue, Des Moines, IA 50309. UNDERWRITING LIMITATION b/: $5,168,000. SURETY LICENSES c/: AZ, CA, CO, ID, IL, IN, IA, KS, MI, MN, MO, MT, NE, NM, ND, OH, OR, SD, TN, TX, UT, WI, WY. INCORPORATED IN: Iowa.

American Automobile Insurance Company. BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. UNDERWRITING LIMITATION b/: $7,790,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA. BUSINESS ADDRESS: 11222 Quail Roost Dr., Miami, FL 33157. UNDERWRITING LIMITATION b/: $8,293,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Florida.

American Bonding Company.2/ BUSINESS ADDRESS: 6245 E. Broadway, SUITE: 600, Tucson, AZ 85711. UNDERWRITING LIMITATION b/: $595,000. SURETY LICENSES c/: AK, AZ, AR, CA, CO, DC, FL, GA, GU, HI, ID, IN, IA, KS, KY, LA, MD, MS, MO, MT, NE, NV, NM, OK, OR, PA, SD, TX, UT, VA, WA, WV. INCORPORATED IN: Arizona.

See Footnotes at end of Circular.

American Casualty Company of Reading, Pennsylvania. BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. UNDERWRITING LIMITATION b/: $27,143,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

American Economy Insurance Company. BUSINESS ADDRESS: 500 North Meridian Street, Indianapolis, IN 46204-1275. UNDERWRITING LIMITATION b/: $38,933,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Employers' Insurance Company. BUSINESS ADDRESS: One Beacon Street, Boston, MA 02108. UNDERWRITING LIMITATION b/: $11,925,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

American Fidelity Company. BUSINESS ADDRESS: Post Office Box 960, Manchester, NH 03107. UNDERWRITING LIMITATION b/: $1,457,000. SURETY LICENSES c/: AK, CT, DC, IA, ME, MD, MA, MS, NE, NH, ND, OK, RI, SD, UT, VT, WV. INCORPORATED IN: Vermont.

American Fire and Casualty Company. BUSINESS ADDRESS: 136 North Third Street, Hamilton, OH 45025. UNDERWRITING LIMITATION b/: $9,923,000. SURETY LICENSES c/: AL, AR, CO, DC, FL, GA, KS, KY, LA, MD, MS, NC, SC, TN, TX, VA. INCORPORATED IN: Ohio.

American Guarantee and Liability Insurance Company. BUSINESS ADDRESS: 1400 American Lane, Schaumburg, IL 60196. UNDERWRITING LIMITATION b/: $7,521,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: New York.

American Home Assurance Company. BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. UNDERWRITING LIMITATION b/: $112,162,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

See Footnotes at end of Circular.

American Insurance Company (The). BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. UNDERWRITING LIMITATION b/: $27,365,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

American Manufacturers Mutual Insurance Company. BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049-0001. UNDERWRITING LIMITATION b/: $12,833,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

American Motorists Insurance Company. BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049-0001. UNDERWRITING LIMITATION b/: $18,905,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

American National Fire Insurance Company. BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. UNDERWRITING LIMITATION b/: $1,619,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Re-Insurance Company. BUSINESS ADDRESS: 555 College Road East, P.O. Box 5241, Princeton, NJ 08543. UNDERWRITING LIMITATION b/: $73,571,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

American Resources Insurance Co., Inc.. BUSINESS ADDRESS: P.O. Box 91149, Mobile, AL 36691. UNDERWRITING LIMITATION b/: $314,000. SURETY LICENSES c/: IN, KY, TN. INCORPORATED IN: Alabama.

See Footnotes at end of Circular.

AMERICAN ROAD INSURANCE COMPANY (THE). BUSINESS ADDRESS: P.O. Box 6027, The American Road, Dearborn, MI 48121-6027. UNDERWRITING LIMITATION b/: $63,142,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

American States Insurance Company. BUSINESS ADDRESS: 500 North Meridian Street, Indianapolis, IN 46204-1275. UNDERWRITING LIMITATION b/: $105,009,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Surety and Casualty Company. BUSINESS ADDRESS: P. O. Box 24827, Jacksonville, FL 32241-4827. UNDERWRITING LIMITATION b/: $600,000. SURETY LICENSES c/: FL, GA. INCORPORATED IN: Florida.

American Surety Company. BUSINESS ADDRESS: 7470 N. Figueroa Street, Los Angeles, CA 90041-1717. UNDERWRITING LIMITATION b/: $282,000. SURETY LICENSES c/: CA. INCORPORATED IN: California.

Amwest Surety Insurance Company. BUSINESS ADDRESS: P.O. Box 4500, Woodland Hills, CA 91367. UNDERWRITING LIMITATION b/: $2,231,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Antilles Insurance Company. BUSINESS ADDRESS: Post Office Box 3507, Old San Juan, PR 00902. UNDERWRITING LIMITATION b/: $1,515,000. SURETY LICENSES c/: PR. INCORPORATED IN: Puerto Rico.

Argonaut Insurance Company. BUSINESS ADDRESS: 250 Middlefield Road, Menlo Park, CA 94025-3507. UNDERWRITING LIMITATION b/: $38,920,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

See Footnotes at end of Circular.

Arkwright Mutual Insurance Company. BUSINESS ADDRESS: 225 Wyman Street, P.O. Box 9198, Waltham, MA 02254-9198. UNDERWRITING LIMITATION b/: $68,634,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Associated Indemnity Corporation. BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. UNDERWRITING LIMITATION b/: $2,829,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

ATLANTIC ALLIANCE FIDELITY AND SURETY COMPANY. BUSINESS ADDRESS: P.O. Box 985, Cherry Hill, NJ 08003. UNDERWRITING LIMITATION b/: $162,000. SURETY LICENSES c/: DE, NJ, PA. INCORPORATED IN: New Jersey.

ATLANTIC CASUALTY AND FIRE INSURANCE COMPANY. BUSINESS ADDRESS: P.O. Box 6108, Columbia, SC 29260-6108. UNDERWRITING LIMITATION b/: $1,341,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Carolina.

Atlantic Mutual Insurance Company. BUSINESS ADDRESS: 45 Wall Street, New York, NY 10005. UNDERWRITING LIMITATION b/: $27,603,000. SURETY LICENSES c/: AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Auto-Owners Insurance Company. BUSINESS ADDRESS: Post Office Box 30660, Lansing, MI 48909. UNDERWRITING LIMITATION b/: $79,228,000. SURETY LICENSES c/: AL, AZ, CO, FL, GA, IL, IN, IA, KS, KY, MI, MN, MO, NE, NC, ND, OH, SC, SD, TN, TX, VA, WI. INCORPORATED IN: Michigan.

See Footnotes at end of Circular.

Automobile Insurance Company of Hartford, Connecticut (The). BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, CT 06156. UNDERWRITING LIMITATION b/: $25,978,000. SURETY LICENSES c/: AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

BANKERS INSURANCE COMPANY. BUSINESS ADDRESS: P.O. Box 15707, St. Petersburg, FL 33733. UNDERWRITING LIMITATION b/: $671,000. SURETY LICENSES c/: AL, AZ, AR, FL, GA, IA, KY, LA, MS, MO, NM, OH, PA, SC, TN, TX. INCORPORATED IN: FLORIDA.

Bankers Multiple Line Insurance Company. BUSINESS ADDRESS: 4810 North Kenneth Avenue, Chicago, IL 60630. UNDERWRITING LIMITATION b/: $1,231,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

BITUMINOUS CASUALTY CORPORATION. BUSINESS ADDRESS: 320 - 18th Street, Rock Island, IL 61201. UNDERWRITING LIMITATION b/: $7,692,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

BOND SAFEGUARD INSURANCE COMPANY. BUSINESS ADDRESS: 246 E. Janata Blvd., Lombard, IL 60148. UNDERWRITING LIMITATION b/: $319,000. SURETY LICENSES c/: IL, IN, KS, MO, TN. INCORPORATED IN: Illinois.

Boston Old Colony Insurance Company. BUSINESS ADDRESS: 180 Maiden Lane, New York, NY 10038. UNDERWRITING LIMITATION b/: $2,623,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Buckeye Union Insurance Company (The). BUSINESS ADDRESS: Post Office Box 1499, Columbus, OH 43216. UNDERWRITING LIMITATION b/: $40,530,000. SURETY LICENSES c/: AK, DC, FL, IL, IN, IA, KS, KY, MD, MI, MO, NY, OH, PA, RI, SD, VA, WV. INCORPORATED IN: Ohio.

See Footnotes at end of Circular.

Capitol Indemnity Corporation. BUSINESS ADDRESS: P.O. Box 5900, Madison, WI 53705-0900. UNDERWRITING LIMITATION b/: $2,930,000. SURETY LICENSES c/: AZ, CO, DE, FL, ID, IL, IN, IA, KS, LA, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, PA, SD, TX, UT, WI, WY. INCORPORATED IN: Wisconsin.

Centennial Insurance Company. BUSINESS ADDRESS: 45 Wall Street, New York, NY 10005. UNDERWRITING LIMITATION b/: $10,810,000. SURETY LICENSES c/: AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Century Indemnity Company. BUSINESS ADDRESS: 1601 Chestnut St., P.O. Box 7716, Philadelphia, PA 19192. UNDERWRITING LIMITATION b/: $1,386,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Charter Oak Fire Insurance Company (The). BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. UNDERWRITING LIMITATION b/: $10,676,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

CHRYSLER INSURANCE COMPANY. BUSINESS ADDRESS: P.O. Box 5168, Southfield, MI 48086-5168. UNDERWRITING LIMITATION b/: $4,447,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

CIGNA Insurance Company of Illinois. BUSINESS ADDRESS: 8755 West Higgins Rd., Chicago, IL 60631. UNDERWRITING LIMITATION b/: $3,356,000. SURETY LICENSES c/: IL. INCORPORATED IN: Illinois.

CIGNA Insurance Company of Texas. BUSINESS ADDRESS: 600 East Las Colinas Blvd., SUITE: 620, Irving, TX 75039. UNDERWRITING LIMITATION b/: $2,662,000. SURETY LICENSES c/: NM, TX. INCORPORATED IN: Texas.

See Footnotes at end of Circular.

CIGNA Insurance Company of the Midwest. BUSINESS ADDRESS: 9200 Keystone Crossing, P.O. Box 80443, Indianapolis, IN 46280. UNDERWRITING LIMITATION b/: $3,030,000. SURETY LICENSES c/: IN. INCORPORATED IN: INDIANA.

CIGNA Reinsurance Company. BUSINESS ADDRESS: Two Liberty Place, 1601 Chestnut St, Philadelphia, PA 19192. UNDERWRITING LIMITATION b/: $20,005,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Cincinnati Casualty Company (The). BUSINESS ADDRESS: P.O. Box 145496, Cincinnati, OH 45250-5496. UNDERWRITING LIMITATION b/: $4,676,000. SURETY LICENSES c/: AL, AZ, CO, FL, GA, IL, IN, IA, KS, KY, MI, MS, MO, NE, NM, NC, OH, OK, PA, SC, SD, TN, TX, UT, VT, VA, WV, WI, WY. INCORPORATED IN: Ohio.

Cincinnati Insurance Company (The). BUSINESS ADDRESS: Post Office Box 145496, Cincinnati, OH 45250-5496. UNDERWRITING LIMITATION b/: $73,543,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

COLONIAL AMERICAN CASUALTY AND SURETY COMPANY. BUSINESS ADDRESS: 210 North Charles Street, Baltimore, MD 21201. UNDERWRITING LIMITATION b/: $516,000. SURETY LICENSES c/: DC, IA, KS, MD, MO, TX, VA. INCORPORATED IN: Maryland.

COLONIAL SURETY COMPANY. BUSINESS ADDRESS: 50 Chestnut Ridge Road, Montvale, NJ 07645. UNDERWRITING LIMITATION b/: $175,000. SURETY LICENSES c/: DE, DC, MD, NJ, PA. INCORPORATED IN: Pennsylvania.

Commercial Insurance Company of Newark, New Jersey. BUSINESS ADDRESS: 180 Maiden Lane, New York, NY 10038. UNDERWRITING LIMITATION b/: $8,977,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

See Footnotes at end of Circular.

Commercial Union Insurance Company. BUSINESS ADDRESS: One Beacon Street, Boston, MA 02108. UNDERWRITING LIMITATION b/: $27,762,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Consolidated Surety Insurance Company, Inc. BUSINESS ADDRESS: 9841 Airport Blvd., SUITE: 912, Los Angeles, CA 90045. UNDERWRITING LIMITATION b/: $290,000. SURETY LICENSES c/: NM. INCORPORATED IN: New Mexico.

Continental Casualty Company. BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. UNDERWRITING LIMITATION b/: $283,854,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Continental Insurance Company (The). BUSINESS ADDRESS: 180 Maiden Lane, New York, NY 10038. UNDERWRITING LIMITATION b/: $34,358,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

CONTINENTAL INSURANCE COMPANY OF PUERTO RICO (THE). BUSINESS ADDRESS: P.O. Box 431, San Patricio Plaza, PMC, San Juan, PR 00920. UNDERWRITING LIMITATION b/: $12,113,000. SURETY LICENSES c/: PR, VI. INCORPORATED IN: Puerto Rico.

Continental Reinsurance Corporation. BUSINESS ADDRESS: 180 Maiden Lane, New York, NY 10038. UNDERWRITING LIMITATION b/: $17,678,000. SURETY LICENSES c/: AK, AZ, AR, CA, CO, DC, FL, HI, ID, IL, IN, IA, LA, MI, MS, MT, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PR, TX, UT, VA, WA, WY. INCORPORATED IN: California.

Continental Western Insurance Company. BUSINESS ADDRESS: P.O. Box 1594, Des Moines, IA 50306. UNDERWRITING LIMITATION b/: $5,895,000. SURETY LICENSES c/: AZ, AR, CO, ID, IL, IN, IA, KS, KY, ME, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, SD, UT, WI, WY. INCORPORATED IN: Iowa.

See Footnotes at end of Circular.

Contractor's Bonding and Insurance Company.3/ BUSINESS ADDRESS: P.O. Box 9271, Seattle, WA 98109-0271. UNDERWRITING LIMITATION b/: $1,010,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Cooperativa de Seguros Multiples de Puerto Rico. BUSINESS ADDRESS: G.P.O. Box 363846, San Juan, PR 00936-3846. UNDERWRITING LIMITATION b/: $8,011,000. SURETY LICENSES c/: PR. INCORPORATED IN: Puerto Rico.

Covenant Mutual Insurance Company. BUSINESS ADDRESS: 103 Woodland Street, Hartford, CT 06105. UNDERWRITING LIMITATION b/: $2,325,000. SURETY LICENSES c/: AL, AZ, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KY, ME, MD, MA, MS, MO, NV, NH, NJ, NY, OH, OR, PA, RI, TN, TX, VT, WA, WI. INCORPORATED IN: Connecticut.

CUMBERLAND CASUALTY & SURETY COMPANY. BUSINESS ADDRESS: 4311 West Waters Avenue, SUITE: 501, Tampa, FL 33614. UNDERWRITING LIMITATION b/: $600,000. SURETY LICENSES c/: DE, DC, FL, ID, IN, LA, MD, MT, NV, SC, SD, TX, WY. INCORPORATED IN: Texas.

CUMIS INSURANCE SOCIETY, INC. BUSINESS ADDRESS: Post Office Box 1084, Madison, WI 53705. UNDERWRITING LIMITATION b/: $2,558,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

DAIRYLAND INSURANCE COMPANY. BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, WI 54481. UNDERWRITING LIMITATION b/: $14,392,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

DELTA CASUALTY COMPANY. BUSINESS ADDRESS: 4711 North Clark Street, Chicago, IL 60640. UNDERWRITING LIMITATION b/: $1,130,000. SURETY LICENSES c/: IL, IA. INCORPORATED IN: Illinois.

DEVELOPERS INSURANCE COMPANY. BUSINESS ADDRESS: 17780 Fitch, Irvine, CA 92714. UNDERWRITING LIMITATION b/: $639,000. SURETY LICENSES c/: AZ, CA, NV, OR, WA. INCORPORATED IN: California.

See Footnotes at end of Circular.

Empire Fire and Marine Insurance Company. BUSINESS ADDRESS: 1624 Douglas Street, Omaha, NE 68102. UNDERWRITING LIMITATION b/: $7,489,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, PA, SC, SD, TX, UT, WA, WI, WY. INCORPORATED IN: Nebraska.

EMPLOYERS' FIRE INSURANCE COMPANY (THE). BUSINESS ADDRESS: One Beacon Street, Boston, MA 02108. UNDERWRITING LIMITATION b/: $4,382,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

EMPLOYERS INSURANCE OF WAUSAU A Mutual Company. BUSINESS ADDRESS: P.O. Box 8017, 2000 Westwood Drive, Wausau, WI 54402-8017. UNDERWRITING LIMITATION b/: $16,755,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Employers Mutual Casualty Company. BUSINESS ADDRESS: Post Office Box 712, Des Moines, IA 50303-0712. UNDERWRITING LIMITATION b/: $24,687,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Employers Reinsurance Corporation. BUSINESS ADDRESS: 5200 Metcalf, P.O. Box 2991, Overland Park, KS 66201. UNDERWRITING LIMITATION b/: $120,319,000. SURETY LICENSES c/: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Erie Insurance Company. BUSINESS ADDRESS: 100 Erie Insurance Place, Erie, PA 16530. UNDERWRITING LIMITATION b/: $866,000. SURETY LICENSES c/: DC, IN, KY, MD, NC, OH, PA, TN, VA, WV. INCORPORATED IN: Pennsylvania.

EVANSTON INSURANCE COMPANY. BUSINESS ADDRESS: Shand Morahan Plaza, Evanston, IL 60201. UNDERWRITING LIMITATION b/: $3,558,000. SURETY LICENSES c/: IL. INCORPORATED IN: Illinois.

See Footnotes at end of Circular.

EXPLORER INSURANCE COMPANY (THE). BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. UNDERWRITING LIMITATION b/: $948,000. SURETY LICENSES c/: AZ, CA, NV, OR. INCORPORATED IN: Arizona.

FAR WEST INSURANCE COMPANY. BUSINESS ADDRESS: P.O. Box 4500, Woodland Hills, CA 91365-4500. UNDERWRITING LIMITATION b/: $382,000. SURETY LICENSES c/: AK, AZ, CA, CO, DC, ID, IN, MT, NV, OR, SD, UT, WY. INCORPORATED IN: California.

Farmers Alliance Mutual Insurance Company. BUSINESS ADDRESS: 1122 North Main Street, McPherson, KS 67460. UNDERWRITING LIMITATION b/: $4,411,000. SURETY LICENSES c/: AZ, CO, ID, IN, IA, KS, MN, MO, MT, NE, NM, ND, OK, SD, TX, WY. INCORPORATED IN: Kansas.

Farmington Casualty Company. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, CT 06156. UNDERWRITING LIMITATION b/: $15,490,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV. WI, WY. INCORPORATED IN: Connecticut.

Farmland Mutual Insurance Company. BUSINESS ADDRESS: 1963 Bell Avenue, Des Moines, IA 50315. UNDERWRITING LIMITATION b/: $4,904,000. SURETY LICENSES c/: AR, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NV, ND, OH, OK, OR, SD, TX, UT, WI, WY. INCORPORATED IN: Iowa.

Federal Insurance Company. BUSINESS ADDRESS: P.O. Box 1615, 15 Mountain View Road, Warren, NJ 07061-1615. UNDERWRITING LIMITATION b/: $153,260,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Indiana.

FEDERATED MUTUAL INSURANCE COMPANY. BUSINESS ADDRESS: 121 East Park Square, Owatonna, MN 55060. UNDERWRITING LIMITATION b/: $40,309,000. SURETY LICENSES c/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

See Footnotes at end of Circular.

Fidelity and Casualty Company of New York (The).
BUSINESS ADDRESS: 180 Maiden Lane, New York, NY 10038. UNDERWRITING LIMITATION b/: $16,924,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Fidelity and Deposit Company of Maryland.
BUSINESS ADDRESS: 210 North Charles Street, Baltimore, MD 21201. UNDERWRITING LIMITATION b/: $24,642,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

FIDELITY AND GUARANTY INSURANCE COMPANY.
BUSINESS ADDRESS: P.O. Box 1138, 100 Light Street, Baltimore, MD 21203. UNDERWRITING LIMITATION b/: $1,530,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Fidelity and Guaranty Insurance Underwriters, Inc..
BUSINESS ADDRESS: P.O. Box 1138, 100 Light Street, Baltimore, MD 21203. UNDERWRITING LIMITATION b/: $5,195,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Fireman's Fund Insurance Company. BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. UNDERWRITING LIMITATION b/: $142,543,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Firemen's Insurance Company of Newark, New Jersey.
BUSINESS ADDRESS: 180 Maiden Lane, New York, NY 10038. UNDERWRITING LIMITATION b/: $48,887,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

See Footnotes at end of Circular.

First Financial Insurance Company. BUSINESS ADDRESS: 401-417 Fayette Avenue, Springfield, IL 62704-2788. UNDERWRITING LIMITATION b/: $1,754,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OR, RI, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

First Insurance Company of Hawaii, Ltd.. BUSINESS ADDRESS: Post Office Box 2866, Honolulu, HI 96803. UNDERWRITING LIMITATION b/: $6,614,000. SURETY LICENSES c/: HI. INCORPORATED IN: Hawaii.

First National Insurance Company of America. BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. UNDERWRITING LIMITATION b/: $4,889,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

FRONTIER INSURANCE COMPANY.10/ BUSINESS ADDRESS: 196 Broadway, Monticello, NY 12701. UNDERWRITING LIMITATION b/: $6,413,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

GENERAL ACCIDENT INSURANCE COMPANY (PUERTO RICO) LIMITED. BUSINESS ADDRESS: P.O. Box 363786, San Juan, PR 00927. UNDERWRITING LIMITATION b/: $3,323,000. SURETY LICENSES c/: PR, VI. INCORPORATED IN: Puerto Rico.

GENERAL ACCIDENT INSURANCE COMPANY OF AMERICA. BUSINESS ADDRESS: 436 Walnut Street, P.O. Box 1109, Philadelphia, PA 19105-1109. UNDERWRITING LIMITATION b/: $101,617,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

General Insurance Company of America. BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. UNDERWRITING LIMITATION b/: $44,190,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Washington.

See Footnotes at end of Circular.

General Reinsurance Corporation. BUSINESS ADDRESS: P.O. Box 10350, 695 East Main Street, Stamford, CT 06904-2350. UNDERWRITING LIMITATION b/: $320,934,000. SURETY LICENSES c/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Glens Falls Insurance Company (The). BUSINESS ADDRESS: 180 Maiden Lane, New York, NY 10038. UNDERWRITING LIMITATION b/: $2,755,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Global Surety & Insurance Co.. BUSINESS ADDRESS: 160 Kiewit Plaza, Omaha, NE 68131. UNDERWRITING LIMITATION b/: $3,413,000. SURETY LICENSES c/: AZ, CA, CO, MT, NE, SD. INCORPORATED IN: Nebraska.

Globe Indemnity Company. BUSINESS ADDRESS: 9300 Arrowpoint Blvd., P.O. Box 1000, Charlotte, NC 28201-1000. UNDERWRITING LIMITATION b/: $22,824,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Grain Dealers Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 1747, Indianapolis, IN 46206. UNDERWRITING LIMITATION b/: $4,079,000. SURETY LICENSES c/: AZ, CO, GA, IL, IN, IA, KS, KY, LA, MN, MS, MO, NE, NV, NM, NC, OH, OK, OR, SD, TN, TX, VA, WA, WI, WY. INCORPORATED IN: Indiana.

GRAMERCY INSURANCE COMPANY.4/ BUSINESS ADDRESS: 110 South French Street, #203, Wilmington, DE 19801. UNDERWRITING LIMITATION b/: $224,000. SURETY LICENSES c/: DE, LA, MD, NM, TX. INCORPORATED IN: Delaware.

Granite State Insurance Company. BUSINESS ADDRESS: Post Office Box 960, Manchester, NH 03107. UNDERWRITING LIMITATION b/: $1,302,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, DC, FL, GA, GU, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

See Footnotes at end of Circular.

Great American Insurance Company. BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. UNDERWRITING LIMITATION b/: $64,702,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Great Northern Insurance Company. BUSINESS ADDRESS: P.O. Box 1615, 15 Mountain View Road, Warren, NJ 07061-1615. UNDERWRITING LIMITATION b/: $8,260,000. SURETY LICENSES c/: AL, AK, AZ, AR, CO, DC, FL, GA, HI, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Gulf Insurance Company. BUSINESS ADDRESS: P.O. Box 1771, Dallas, TX 75221-1771. UNDERWRITING LIMITATION b/: $12,100,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Hamilton Mutual Insurance Company of Cincinnati, Ohio (The). BUSINESS ADDRESS: 1520 Madison Road, Cincinnati, OH 45206-1787. UNDERWRITING LIMITATION b/: $941,000. SURETY LICENSES c/: IN, KY, MI, OH. INCORPORATED IN: Ohio.

Hanover Insurance Company (The). BUSINESS ADDRESS: 100 North Parkway, Worcester, MA 01605. UNDERWRITING LIMITATION b/: $49,649,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

HARCO NATIONAL INSURANCE COMPANY. BUSINESS ADDRESS: P.O. Box 68309, Schaumburg, IL 60168-0309. UNDERWRITING LIMITATION b/: $3,274,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

See Footnotes at end of Circular.

Harleysville Mutual Insurance Company. BUSINESS ADDRESS: 355 Maple Avenue, Harleysville, PA 19438-2285. UNDERWRITING LIMITATION b/: $24,883,000. SURETY LICENSES c/: AL, CA, CO, CT, DE, DC, FL, GA, IL, IN, IA, KS, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NM, NY, NC, OH, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI. INCORPORATED IN: Pennsylvania.

Hartford Accident and Indemnity Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. UNDERWRITING LIMITATION b/: $78,482,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Casualty Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. UNDERWRITING LIMITATION b/: $18,823,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Fire Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. UNDERWRITING LIMITATION b/: $204,754,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Insurance Company of Connecticut. BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. UNDERWRITING LIMITATION b/: $1,751,000. SURETY LICENSES c/: AL, AK, CT, DE, DC, IN, MA, MN, MO, NE, NJ, OK, PA, RI, WY. INCORPORATED IN: Connecticut.

Hartford Insurance Company of Illinois. BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. UNDERWRITING LIMITATION b/: $6,281,000. SURETY LICENSES c/: IL, PA. INCORPORATED IN: Illinois.

Hartford Insurance Company of the Midwest. BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. UNDERWRITING LIMITATION b/: $2,038,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

See Footnotes at end of Circular.

Hartford Insurance Company of the Southeast.
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115.
UNDERWRITING LIMITATION b/: $1,831,000. SURETY LICENSES c/:
CT, FL, GA, LA, PA. INCORPORATED IN: Florida.

Hartford Underwriters Insurance Company.
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115.
UNDERWRITING LIMITATION b/: $14,304,000. SURETY LICENSES c/:
AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN,
IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH,
NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT,
VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Highlands Insurance Company. BUSINESS ADDRESS:
10370 Richmond Avenue, Houston, TX 77042-4123. UNDERWRITING
LIMITATION b/: $16,979,000. SURETY LICENSES c/: AL, AK, AZ,
AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY,
LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY,
NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA,
VI, WA, WV, WI, WY. INCORPORATED IN: Texas.

Highlands Underwriters Insurance Company.
BUSINESS ADDRESS: 10370 Richmond Avenue, Houston, TX
77042-4123. UNDERWRITING LIMITATION b/: $2,060,000.
SURETY LICENSES c/: AL, AZ, AR, CA, FL, GA, LA, MS, NM, OK,
TX. INCORPORATED IN: Texas.

Home Indemnity Company (The). BUSINESS ADDRESS:
59 Maiden Lane, 7th Floor, New York, NY 10038. UNDERWRITING
LIMITATION b/: $9,260,000. SURETY LICENSES c/: AL, AK, AS, AZ,
AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS,
KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM,
NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT,
VA, VI, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Home Insurance Company (The). BUSINESS ADDRESS:
59 Maiden Lane, 7th Floor, New York, NY 10038. UNDERWRITING
LIMITATION b/: $61,149,000. SURETY LICENSES c/: AL, AK, AS,
AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA,
KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ,
NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT,
VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Houston General Insurance Company. BUSINESS ADDRESS:
Post Office Box 2932, Fort Worth, TX 76113-2932.
UNDERWRITING LIMITATION b/: $9,366,000. SURETY LICENSES c/:
AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS,
KY, LA, MD, MI, MS, MO, MT, NV, NM, NY, ND, OH, OR, SC, SD,
TN, TX, UT, VA, WA, WY. INCORPORATED IN: Texas.

See Footnotes at end of Circular.

Illinois National Insurance Company. BUSINESS ADDRESS: 3201 West White Oaks Drive, Springfield, IL 62703. UNDERWRITING LIMITATION b/: $2,477,000. SURETY LICENSES c/: AK, IL, IN, IA, KY, MD, MO, MT, NE, NH, NM, NY, ND, OH, RI, SD, TX, UT, VT, WV. INCORPORATED IN: Illinois.

Indemnity Company of California. BUSINESS ADDRESS: 17780 Fitch, Irvine, CA 92714. UNDERWRITING LIMITATION b/: $805,000. SURETY LICENSES c/: AZ, CA, NV, OR, WA. INCORPORATED IN: California.

Indemnity Insurance Company of North America. BUSINESS ADDRESS: 1601 Chestnut St., P.O. Box 7716, Philadelphia, PA 19192. UNDERWRITING LIMITATION b/: $12,497,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Indiana Lumbermens Mutual Insurance Company. BUSINESS ADDRESS: P.O. Box 68600, Indianapolis, IN 46268-1168. UNDERWRITING LIMITATION b/: $1,810,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Inland Insurance Company. BUSINESS ADDRESS: Post Office Box 80468, Lincoln, NE 68501. UNDERWRITING LIMITATION b/: $2,920,000. SURETY LICENSES c/: AZ, CO, IA, KS, MN, MT, NE, ND, OK, SD, WY. INCORPORATED IN: Nebraska.

INSURANCE COMPANY OF EVANSTON. BUSINESS ADDRESS: Shand Morahan Plaza, Evanston, IL 60201. UNDERWRITING LIMITATION b/: $2,559,000. SURETY LICENSES c/: AL, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Insurance Company of North America. BUSINESS ADDRESS: 1601 Chestnut St., P.O. Box 7716, Philadelphia, PA 19192. UNDERWRITING LIMITATION b/: $61,250,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

See Footnotes at end of Circular.

Insurance Company of the State of Pennsylvania. BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. UNDERWRITING LIMITATION b/: $32,401,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the West. BUSINESS ADDRESS: Post Office Box 85563, San Diego, CA 92186-5563. UNDERWRITING LIMITATION b/: $7,938,000. SURETY LICENSES c/: AZ, CA, CO, ID, MD, MI, MT, NV, NM, OK, OR, TX, UT, WA. INCORPORATED IN: California.

INTEGRAND ASSURANCE COMPANY. BUSINESS ADDRESS: Call Box 70128, San Juan, PR 00936-7128. UNDERWRITING LIMITATION b/: $2,568,000. SURETY LICENSES c/: PR. INCORPORATED IN: Puerto Rico.

Intercargo Insurance Company. BUSINESS ADDRESS: 1450 East American Lane, 20th Floor, Schaumburg, IL 60173. UNDERWRITING LIMITATION b/: $1,075,000. SURETY LICENSES c/: AZ, CA, CO, DC, FL, GA, IL, IN, LA, MD, MA, MI, MO, NM, NY, OR, PA, TN, TX, VA, WA, WI. INCORPORATED IN: Illinois.

International Business & Mercantile REassurance Company. BUSINESS ADDRESS: 307 N. Michigan Ave., Chicago, IL 60601. UNDERWRITING LIMITATION b/: $6,212,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

INTERNATIONAL CREDIT OF NORTH AMERICA REINSURANCE INC.. BUSINESS ADDRESS: 1225 Franklin Avenue, Garden City, NY 11530. UNDERWRITING LIMITATION b/: $4,514,000. SURETY LICENSES c/: NY. INCORPORATED IN: New York.

International Fidelity Insurance Company. BUSINESS ADDRESS: P.O. Box 56, Newark, NJ 07101. UNDERWRITING LIMITATION b/: $2,023,000. SURETY LICENSES c/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: New Jersey.

ISLAND INSURANCE COMPANY, LIMITED. BUSINESS ADDRESS: P.O. Box 1520, Honolulu, HI 96806. UNDERWRITING LIMITATION b/: $5,438,000. SURETY LICENSES c/: HI. INCORPORATED IN: Hawaii.

See Footnotes at end of Circular.

ITT Lyndon Property Insurance Company. BUSINESS ADDRESS: 12555 Manchester Road, St. Louis, MO 63131. UNDERWRITING LIMITATION b/: $11,199,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

John Deere Insurance Company. BUSINESS ADDRESS: 3400 80th Street, Moline, IL 61265. UNDERWRITING LIMITATION b/: $5,262,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Kansas Bankers Surety Company (The). BUSINESS ADDRESS: Post Office Box 1654, Topeka, KS 66601-1654. UNDERWRITING LIMITATION b/: $2,346,000. SURETY LICENSES c/: CO, IL, IA, KS, MN, MO, NE, OK, SD, WI, WY. INCORPORATED IN: Kansas.

Kansas City Fire and Marine Insurance Company. BUSINESS ADDRESS: 180 Maiden Lane, New York, NY 10038. UNDERWRITING LIMITATION b/: $1,105,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

KEMPER REINSURANCE COMPANY. BUSINESS ADDRESS: , Long Grove, IL 60049. UNDERWRITING LIMITATION b/: $20,806,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, NV, NJ, NM, OH, OK, OR, PA, RI, TN, UT, WA, WI. INCORPORATED IN: Illinois.

Lawyers Surety Corporation. BUSINESS ADDRESS: P.O.Box 569480, Dallas, TX 75356-9480. UNDERWRITING LIMITATION b/: $513,000. SURETY LICENSES c/: AL, AR, CA, FL, GA, KY, MS, NC, OK, SC, TN, TX. INCORPORATED IN: Texas.

Liberty Mutual Insurance Company. BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. UNDERWRITING LIMITATION b/: $166,039,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

See Footnotes at end of Circular.

LINCOLN GENERAL INSURANCE COMPANY. BUSINESS ADDRESS: 3350 Whiteford Road, York, PA 17402. UNDERWRITING LIMITATION b/: $1,811,000. SURETY LICENSES c/: AL, GA, ID, IN, IA, KS, KY, LA, MD, MS, MO, NE, NV, NM, ND, OH, OR, PA, SC, SD, TN, UT, VA, WV, WY. INCORPORATED IN: Pennsylvania.

London Assurance of America Inc. (The). 5/ BUSINESS ADDRESS: 10 East 50th Street, 27th Floor, New York, NY 10022. UNDERWRITING LIMITATION b/: $17,185,000. SURETY LICENSES c/: AK, IA, ME, MI, MN, NJ, NY, ND, OH, UT, VT. INCORPORATED IN: New York.

Lumbermens Mutual Casualty Company. BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049-0001. UNDERWRITING LIMITATION b/: $105,148,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Massachusetts Bay Insurance Company. BUSINESS ADDRESS: 100 North Parkway, Worcester, MA 01605. UNDERWRITING LIMITATION b/: $1,307,000. SURETY LICENSES c/: AL, AR, CA, CO, CT, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WA, WV, WI. INCORPORATED IN: Massachusetts.

MCA Insurance Company. BUSINESS ADDRESS: 484 Central Avenue, Newark, NJ 07107-2096. UNDERWRITING LIMITATION b/: $2,397,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Oklahoma.

Merchants Bonding Company (Mutual). BUSINESS ADDRESS: 2100 Grand Avenue, Des Moines, IA 50312. UNDERWRITING LIMITATION b/: $922,000. SURETY LICENSES c/: AL, AZ, CA, CO, FL, GA, ID, IL, IN, IA, KS, LA, MI, MN, MO, MT, NE, NV, NM, NC, ND, OK, OR, PA, SD, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Iowa.

Michigan Millers Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 30060, Lansing, MI 48909. UNDERWRITING LIMITATION b/: $6,352,000. SURETY LICENSES c/: AZ, AR, CA, CO, DC, FL, ID, IN, KS, KY, MI, MO, NE, NJ, NY, NC, OH, OK, PA, TX, UT, VA, WA. INCORPORATED IN: Michigan.

See Footnotes at end of Circular.

Michigan Mutual Insurance Company. BUSINESS ADDRESS: P.O. Box 5110, Southfield, MI 48086-5110. UNDERWRITING LIMITATION b/: $17,382,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Mid-Century Insurance Company. BUSINESS ADDRESS: Post Office Box 2478, Terminal Annex, Los Angeles, CA 90051. UNDERWRITING LIMITATION b/: $3,825,000. SURETY LICENSES c/: AZ, AR, CA, CO, ID, IL, IN, IA, KS, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TX, UT, WA, WI, WY. INCORPORATED IN: California.

MID-CONTINENT CASUALTY COMPANY. BUSINESS ADDRESS: Post Office Box 1409, Tulsa, OK 74101. UNDERWRITING LIMITATION b/: $3,556,000. SURETY LICENSES c/: AL, AZ, AR, CO, IL, IN, IA, KS, MN, MS, MO, MT, NE, NM, ND, OK, TX, UT, WA, WY. INCORPORATED IN: Oklahoma.

Millers Mutual Fire Insurance Company of Texas (The). BUSINESS ADDRESS: Post Office Box 2269, Fort Worth, TX 76113-2269. UNDERWRITING LIMITATION b/: $6,349,000. SURETY LICENSES c/: CO, DC, ID, IL, IN, IA, LA, MI, OK, OR, TX, WY. INCORPORATED IN: Texas.

Millers' Mutual Insurance Association of Illinois. BUSINESS ADDRESS: 111 East Fourth Street, P.O. Box 9006, Alton, IL 62002-9006. UNDERWRITING LIMITATION b/: $4,241,000. SURETY LICENSES c/: AL, AR, CO, DC, GA, IL, IN, IA, KS, LA, MN, MS, MO, MT, NE, NC, ND, OH, OK, SD, TN, WI. INCORPORATED IN: Illinois.

Minnesota Trust Company of Austin. BUSINESS ADDRESS: P.O. Box 463, Austin, MN 55912-0463. UNDERWRITING LIMITATION b/: $155,000. SURETY LICENSES c/: CO, MN, MT, ND. INCORPORATED IN: Minnesota.

MOTORS INSURANCE CORPORATION. BUSINESS ADDRESS: 3044 West Grand Boulevard, Detroit, MI 48202. UNDERWRITING LIMITATION b/: $84,601,000. SURETY LICENSES c/: AL, AK, AZ, AR, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

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Munich American Reinsurance Company. BUSINESS ADDRESS: 560 Lexington Avenue, New York, NY 10022. UNDERWRITING LIMITATION b/: $26,778,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MT, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: New York.

National American Insurance Company. BUSINESS ADDRESS: 1008 Manvel Avenue, Chandler, OK 74834. UNDERWRITING LIMITATION b/: $1,531,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

National Automobile and Casualty Insurance Company. BUSINESS ADDRESS: Post Office Box 7040, Pasadena, CA 91109. UNDERWRITING LIMITATION b/: $694,000. SURETY LICENSES c/: AK, AZ, CA, IN, MO, NV, TX, WA. INCORPORATED IN: California.

National-Ben Franklin Insurance Company of Illinois. BUSINESS ADDRESS: 200 South Wacker Drive, Chicago, IL 60606. UNDERWRITING LIMITATION b/: $11,994,000. SURETY LICENSES c/: DC, IL, IN, IA, KY, MD, MI, MN, NY, NC, ND, RI, SD, WI. INCORPORATED IN: Illinois.

National Fire Insurance Company of Hartford. BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. UNDERWRITING LIMITATION b/: $45,178,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

National Grange Mutual Insurance Company. BUSINESS ADDRESS: 55 West Street, Keene, NH 03431. UNDERWRITING LIMITATION b/: $7,919,000. SURETY LICENSES c/: CT, DE, DC, ME, MD, MA, MI, NH, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI. INCORPORATED IN: New Hampshire.

National Indemnity Company. BUSINESS ADDRESS: 3024 Harney Street, Omaha, NE 68131-3580. UNDERWRITING LIMITATION b/: $281,253,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

See Footnotes at end of Circular.

NATIONAL REINSURANCE CORPORATION. BUSINESS ADDRESS: 777 Long Ridge Road, P.O. Box 10167, Stamford, CT 06904-2167. UNDERWRITING LIMITATION b/: $25,366,000. SURETY LICENSES c/: AK, AZ, AR, CA, CO, DE, DC, FL, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MT, NE, NV, NJ, NY, NC, ND, OH, OK, PA, PR, RI, SC, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

National Surety Corporation. BUSINESS ADDRESS: 200 West Monroe Street, Chicago, IL 60606. UNDERWRITING LIMITATION b/: $9,138,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

National Union Fire Insurance Company of Pittsburgh, PA. BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. UNDERWRITING LIMITATION b/: $97,040,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Nationwide Mutual Insurance Company. BUSINESS ADDRESS: One Nationwide Plaza, Columbus, OH 43216. UNDERWRITING LIMITATION b/: $310,108,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Netherlands Insurance Company (The). BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. UNDERWRITING LIMITATION b/: $1,395,000. SURETY LICENSES c/: AZ, CA, CT, DC, GA, ID, IN, IA, KY, ME, MD, MI, NV, NH, NJ, NY, NC, OH, RI, SC, UT, VT, VA, WA, WI. INCORPORATED IN: New Hampshire.

New Hampshire Insurance Company. BUSINESS ADDRESS: Post Office Box 960, Manchester, NH 03107. UNDERWRITING LIMITATION b/: $29,359,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

See Footnotes at end of Circular.

Newark Insurance Company. BUSINESS ADDRESS: 9300 Arrowpoint Blvd., P.O. Box 1000, Charlotte, NC 28201-1000. UNDERWRITING LIMITATION b/: $4,624,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

North American Reinsurance Corporation. BUSINESS ADDRESS: 237 Park Avenue, New York, NY 10017. UNDERWRITING LIMITATION b/: $20,337,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: New York.

NORTH AMERICAN SPECIALTY INSURANCE COMPANY. BUSINESS ADDRESS: 650 Elm Street, 6th Floor, Manchester, NH 03101-2596. UNDERWRITING LIMITATION b/: $2,704,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

North Star Reinsurance Corporation. BUSINESS ADDRESS: 100 Campus Drive, CN 853, Florham Park, NJ 07932-0853. UNDERWRITING LIMITATION b/: $15,373,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Northbrook Property and Casualty Insurance Company. BUSINESS ADDRESS: Allstate Plaza, Northbrook, IL 60062. UNDERWRITING LIMITATION b/: $15,393,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Northern Assurance Company of America (The). BUSINESS ADDRESS: One Beacon Street, Boston, MA 02108. UNDERWRITING LIMITATION b/: $15,045,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

See Footnotes at end of Circular.

NORTHWESTERN PACIFIC INDEMNITY COMPANY. BUSINESS ADDRESS: 15 Mountain View Road, P.O. Box 1615, Warren, NJ 07061-1615. UNDERWRITING LIMITATION b/: $1,940,000. SURETY LICENSES c/: CA, OK, OR, TX, WA. INCORPORATED IN: Oregon.

Oceanic Insurance and Surety Company. BUSINESS ADDRESS: 1450 E. American Lane, 20th Floor, Schaumburg, IL 60173. UNDERWRITING LIMITATION b/: $553,000. SURETY LICENSES c/: NM. INCORPORATED IN: New Mexico.

Ohio Casualty Insurance Company (The). BUSINESS ADDRESS: 136 North Third Street, Hamilton, OH 45025. UNDERWRITING LIMITATION b/: $64,342,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Farmers Insurance Company. BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251-5001. UNDERWRITING LIMITATION b/: $33,836,000. SURETY LICENSES c/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Oklahoma Surety Company. BUSINESS ADDRESS: Post Office Box 1409, Tulsa, OK 74101. UNDERWRITING LIMITATION b/: $539,000. SURETY LICENSES c/: KS, OK, TX. INCORPORATED IN: Oklahoma.

Old Republic Insurance Company. BUSINESS ADDRESS: Post Office Box 789, Greensburg, PA 15601-0789. UNDERWRITING LIMITATION b/: $26,547,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Old Republic Surety Company. BUSINESS ADDRESS: P.O. Box 1635, Milwaukee, WI 53201. UNDERWRITING LIMITATION b/: $1,131,000. SURETY LICENSES c/: AL, AZ, AR, CA, CO, DC, GA, ID, IL, IN, IA, KS, MD, MN, MS, MO, MT, NE, NV, NM, NC, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Wisconsin.

See Footnotes at end of Circular.

Omaha Property and Casualty Insurance Company. BUSINESS ADDRESS: 3102 Farnam Street, Omaha, NE 68131. UNDERWRITING LIMITATION b/: $2,200,000. SURETY LICENSES c/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, PA, RI, SD, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Pacific Employers Insurance Company. BUSINESS ADDRESS: 1601 Chestnut Street, P.O. Box 7716, Philadelphia, PA 19192. UNDERWRITING LIMITATION b/: $17,457,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: California.

Pacific Indemnity Company. BUSINESS ADDRESS: P.O. Box 1615, 15 Mountain View Road, Warren, NJ 07061-1615. UNDERWRITING LIMITATION b/: $35,044,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Pacific Insurance Company, Limited. BUSINESS ADDRESS: 1001 Bishop Street, Honolulu, HI 96807. UNDERWRITING LIMITATION b/: $4,759,000. SURETY LICENSES c/: HI. INCORPORATED IN: Hawaii.

PACIFIC STATES CASUALTY COMPANY. BUSINESS ADDRESS: 14726 Ramona Avenue, 3rd Floor, Chino, CA 91710. UNDERWRITING LIMITATION b/: $1,592,000. SURETY LICENSES c/: AZ, CA, CO, ID, NV, TX, UT, WA, WY. INCORPORATED IN: California.

Peerless Insurance Company. BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. UNDERWRITING LIMITATION b/: $8,474,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Pekin Insurance Company. BUSINESS ADDRESS: 2505 Court Street, Pekin, IL 61558. UNDERWRITING LIMITATION b/: $2,193,000. SURETY LICENSES c/: IL, IN, IA, WI. INCORPORATED IN: Illinois.

See Footnotes at end of Circular.

Pennsylvania Manufacturers' Association Insurance Company. BUSINESS ADDRESS: 925 Chestnut Street, Philadelphia, PA 19107. UNDERWRITING LIMITATION b/: $25,183,000. SURETY LICENSES c/: AK, AZ, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, MD, MA, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Pennsylvania Millers Mutual Insurance Company. BUSINESS ADDRESS: 15 Public Square, Wilkes-Barre, PA 18773-0016. UNDERWRITING LIMITATION b/: $4,302,000. SURETY LICENSES c/: CT, DC, FL, GA, ID, IN, KS, KY, ME, MD, MA, MS, MO, NH, NJ, NY, NC, ND, PA, RI, SC, TN, UT, VT, VA, WA, WV. INCORPORATED IN: Pennsylvania.

Pennsylvania National Mutual Casualty Insurance Company. BUSINESS ADDRESS: P.O. Box 2361, Harrisburg, PA 17105-2361. UNDERWRITING LIMITATION b/: $15,062,000. SURETY LICENSES c/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Personal Service Insurance Co. (The). BUSINESS ADDRESS: P.O. BOX 1226, Columbus, OH 43216-1226. UNDERWRITING LIMITATION b/: $3,010,000. SURETY LICENSES c/: IN, OH. INCORPORATED IN: OHIO.

Phoenix Assurance Company of New York. BUSINESS ADDRESS: 4 World Trade Center, Suite 6274, New York, NY 10048. UNDERWRITING LIMITATION b/: $7,540,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Phoenix Insurance Company (The). BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. UNDERWRITING LIMITATION b/: $57,026,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

PINNACLE INSURANCE COMPANY. BUSINESS ADDRESS: P.O. Box 1919, Carrollton, GA 30117. UNDERWRITING LIMITATION b/: $483,000. SURETY LICENSES c/: AL, AK, AR, CO, DC, FL, GA, ID, IN, KS, KY, LA, MD, MS, NE, NV, OH, OK, OR, SC, TN, TX, UT, WV, WY. INCORPORATED IN: Georgia.

See Footnotes at end of Circular.

PLANET INDEMNITY COMPANY. BUSINESS ADDRESS: 410 17th Street, SUITE: 1675, Denver, CO 80202. UNDERWRITING LIMITATION b/: $502,000. SURETY LICENSES c/: AL, CO, GA, IL, IN, KS, KY, NE, NM, OR, SD, TX. INCORPORATED IN: Colorado.

PLANET INSURANCE COMPANY. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, PA 19103. UNDERWRITING LIMITATION b/: $1,762,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

PREFERRED NATIONAL INSURANCE COMPANY. BUSINESS ADDRESS: P.O. Box 407003, Ft. Lauderdale, FL 33340-7003. UNDERWRITING LIMITATION b/: $553,000. SURETY LICENSES c/: FL. INCORPORATED IN: FLORIDA.

Progressive Casualty Insurance Company. BUSINESS ADDRESS: 6000 Parkland Boulevard, Mayfield Hts., OH 44124. UNDERWRITING LIMITATION b/: $9,230,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

PROTECTION MUTUAL INSURANCE COMPANY. BUSINESS ADDRESS: 300 S. Northwest Highway, Park Ridge, IL 60068. UNDERWRITING LIMITATION b/: $31,649,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Protective Insurance Company. BUSINESS ADDRESS: 1099 North Meridian Street, Indianapolis, IN 46204. UNDERWRITING LIMITATION b/: $12,360,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Prudential Reinsurance Company. BUSINESS ADDRESS: 3 Gateway Center, Newark, NJ 07102-4077. UNDERWRITING LIMITATION b/: $55,669,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI. INCORPORATED IN: Delaware.

See Footnotes at end of Circular.

Ranger Insurance Company. BUSINESS ADDRESS: P. O. Box 2807, Houston, TX 77252-2807. UNDERWRITING LIMITATION b/: $2,500,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Reinsurance Corporation of New York (The). BUSINESS ADDRESS: 80 Maiden Lane, New York, NY 10038. UNDERWRITING LIMITATION b/: $3,144,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Reliance Insurance Company. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, PA 19103. UNDERWRITING LIMITATION b/: $30,226,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Reliance Insurance Company of New York. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, PA 19103. UNDERWRITING LIMITATION b/: $757,000. SURETY LICENSES c/: NY. INCORPORATED IN: New York.

Republic Western Insurance Company. BUSINESS ADDRESS: 2721 North Central Avenue, Phoenix, AZ 85004-1120. UNDERWRITING LIMITATION b/: $10,017,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Arizona.

Royal Indemnity Company. BUSINESS ADDRESS: 9300 Arrowpoint Blvd., P.O. Box 1000, Charlotte, NC 28201-1000. UNDERWRITING LIMITATION b/: $14,349,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

See Footnotes at end of Circular.

Royal Insurance Company of America. BUSINESS ADDRESS: 495 N. Commons Drive, Meridian Business Campus, Aurora, IL 60504. UNDERWRITING LIMITATION b/: $27,086,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

SAFECO Insurance Company of America. BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. UNDERWRITING LIMITATION b/: $58,606,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Washington.

SAFECO Insurance Company of Illinois. BUSINESS ADDRESS: Safeco Plaza, Seattle, WA 98185. UNDERWRITING LIMITATION b/: $6,932,000. SURETY LICENSES c/: AZ, CO, IL, KS, KY, MD, MI, MN, MS, NE, NM, OH, OR, PA, TN, TX, UT, WI. WY. INCORPORATED IN: Illinois.

SAFECO National Insurance Company. BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. UNDERWRITING LIMITATION b/: $4,815,000. SURETY LICENSES c/: CO, KY, MD, MO, NY, UT, WI. INCORPORATED IN: Missouri.

SCOR REINSURANCE COMPANY. BUSINESS ADDRESS: 110 William Street, 18th Floor, New York, NY 10038. UNDERWRITING LIMITATION b/: $13,624,000. SURETY LICENSES c/: AL, AZ, AR, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, LA, MD, MA, MN, MS, NE, NV, NJ, NM, NY, OH, OR, PA, SC, TX, VT, WA, WY. INCORPORATED IN: New York.

Sea Insurance Company of America (The). 6/ BUSINESS ADDRESS: 10 East 50th Street, 27th Floor, New York, NY 10022. UNDERWRITING LIMITATION b/: $9,411,000. SURETY LICENSES c/: AK, AZ, AR, CA, CT, DE, FL, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Seaboard Surety Company. BUSINESS ADDRESS: Burnt Mills Road and Route 206, Bedminster, NJ 07921. UNDERWRITING LIMITATION b/: $9,244,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

See Footnotes at end of Circular.

Security National Insurance Company. BUSINESS ADDRESS: Post Office Box 655028, Dallas, TX 75265-5028. UNDERWRITING LIMITATION b/: $1,163,000. SURETY LICENSES c/: AL, AR, CA, CO, IL, IN, KS, KY, MO, NM, OH, OK, TX, WY. INCORPORATED IN: Texas.

Select Insurance Company. BUSINESS ADDRESS: Post Office Box 1771, Dallas, TX 75221-1771. UNDERWRITING LIMITATION b/: $1,522,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, OH, OR, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

Selective Insurance Company of America. BUSINESS ADDRESS: Wantage Avenue, Branchville, NJ 07890. UNDERWRITING LIMITATION b/: $19,876,000. SURETY LICENSES c/: AL, DE, DC, FL, GA, MD, MS, NJ, NY, NC, PA, SC, TX, VA. INCORPORATED IN: New Jersey.

SENTINEL INSURANCE COMPANY, LTD.. BUSINESS ADDRESS: 1001 Bishop Street, Honolulu, HI 96807. UNDERWRITING LIMITATION b/: $1,170,000. SURETY LICENSES c/: HI. INCORPORATED IN: Hawaii.

Sentry Insurance A Mutual Company. BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, WI 54481. UNDERWRITING LIMITATION b/: $75,358,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Skandia America Reinsurance Corporation. BUSINESS ADDRESS: One Liberty Plaza, New York, NY 10006. UNDERWRITING LIMITATION b/: $35,301,000. SURETY LICENSES c/: AL, AZ, CA, DE, DC, GA, ID, IL, IN, IA, MI, MS, MT, NE, NY, OH, OK, OR, PA, TX, UT, VA, WA, WI. INCORPORATED IN: Delaware.

SOREMA NORTH AMERICA REINSURANCE COMPANY. BUSINESS ADDRESS: 199 Water Street, New York, NY 10038-3526. UNDERWRITING LIMITATION b/: $10,207,000. SURETY LICENSES c/: AK, AZ, DC, ID, IL, KS, MI, MS, MT, NE, NM, NY, OH, OR, RI, TN, TX, UT, WA, WI. INCORPORATED IN: New York.

See Footnotes at end of Circular.

St. Paul Fire and Marine Insurance Company. BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. UNDERWRITING LIMITATION b/: $152,467,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

ST. PAUL GUARDIAN INSURANCE COMPANY. BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. UNDERWRITING LIMITATION b/: $2,288,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Minnesota.

St. Paul Mercury Insurance Company. BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. UNDERWRITING LIMITATION b/: $4,343,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Standard Fire Insurance Company (The). BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, CT 06156. UNDERWRITING LIMITATION b/: $65,925,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

State Automobile Mutual Insurance Company. BUSINESS ADDRESS: 518 East Broad Street, Columbus, OH 43215. UNDERWRITING LIMITATION b/: $25,299,000. SURETY LICENSES c/: AL, AZ, AR, CO, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NC, ND, OH, PA, SC, SD, TN, VA, WV, WI, WY. INCORPORATED IN: Ohio.

State Farm Fire and Casualty Company. BUSINESS ADDRESS: 112 East Washington Street, Bloomington, IL 61701. UNDERWRITING LIMITATION b/: $191,431,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

See Footnotes at end of Circular.

State Surety Company. BUSINESS ADDRESS: P.O. Box 1976, Des Moines, IA 50306. UNDERWRITING LIMITATION b/: $397,000. SURETY LICENSES c/: AZ, CO, DC, ID, IL, IA, KS, MN, MO, MT, NE, NM, ND, OK, SD, WI, WY. INCORPORATED IN: Iowa.

Statewide Insurance Company. BUSINESS ADDRESS: P.O. Box 799, Waukegan, IL 60079. UNDERWRITING LIMITATION b/: $354,000. SURETY LICENSES c/: AZ, AR, IL, IA. INCORPORATED IN: Illinois.

SUN INSURANCE COMPANY OF NEW YORK. BUSINESS ADDRESS: 4 World Trade Center, New York, NY 10048. UNDERWRITING LIMITATION b/: $7,151,000. SURETY LICENSES c/: AK, AZ, CA, CT, DE, DC, GA, IL, IA, KY, LA, ME, MD, MA, MI, MN, MO, MT, NJ, NY, OH, OK, OR, PA, PR, RI, SC, TN, TX, VA, WA, WI. INCORPORATED IN: New York.

Sun Insurance Office of America Inc..7/ BUSINESS ADDRESS: 10 East 50th Street, 27th Floor, New York, NY 10022. UNDERWRITING LIMITATION b/: $14,477,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Surety Company of the Pacific. BUSINESS ADDRESS: Post Office Box 1067, Northridge, CA 91328. UNDERWRITING LIMITATION b/: $405,000. SURETY LICENSES c/: CA. INCORPORATED IN: California.

TEXAS PACIFIC INDEMNITY COMPANY. BUSINESS ADDRESS: Diamond Shamrock Tower, 717 North Harwood, Dallas, TX 75201. UNDERWRITING LIMITATION b/: $593,000. SURETY LICENSES c/: AR, TX. INCORPORATED IN: Texas.

Transamerica Insurance Company. BUSINESS ADDRESS: 6300 Canoga Avenue, Woodland Hills, CA 91367. UNDERWRITING LIMITATION b/: $72,101,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Transamerica Insurance Company of Michigan. BUSINESS ADDRESS: 70 West Michigan Avenue, Battle Creek, MI 49016. UNDERWRITING LIMITATION b/: $2,027,000. SURETY LICENSES c/: AR, ID, IL, IN, IA, KS, KY, MI, MN, MO, NY, OH, SD, TX, UT. INCORPORATED IN: Michigan.

See Footnotes at end of Circular.

Transamerica Premier Insurance Company. BUSINESS ADDRESS: 333 South Anita Drive, Orange, CA 92668. UNDERWRITING LIMITATION b/: $10,938,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: California.

TRANSATLANTIC REINSURANCE COMPANY. BUSINESS ADDRESS: 80 PINE STREET, NEW YORK, NY 10005. UNDERWRITING LIMITATION b/: $10,771,000. SURETY LICENSES c/: CT, DC, FL, IL, IN, IA, NV, NJ, NM, NY, OH, OK, PA. INCORPORATED IN: New York.

Transcontinental Insurance Company. BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. UNDERWRITING LIMITATION b/: $17,010,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Transportation Insurance Company. BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. UNDERWRITING LIMITATION b/: $6,812,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: Illinois.

Travelers Indemnity Company (The). BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. UNDERWRITING LIMITATION b/: $127,780,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

TRAVELERS INDEMNITY COMPANY OF AMERICA (THE). BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. UNDERWRITING LIMITATION b/: $7,194,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Georgia.

See Footnotes at end of Circular.

Travelers Indemnity Company of Illinois (The). BUSINESS ADDRESS: 200 West Madison Street, Chicago, IL 60606. UNDERWRITING LIMITATION b/: $3,949,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Travelers Indemnity Company of Rhode Island (The). BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. UNDERWRITING LIMITATION b/: $13,651,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

Tri-State Insurance Company of Minnesota. BUSINESS ADDRESS: One Roundwind Road, Luverne, MN 56156. UNDERWRITING LIMITATION b/: $3,691,000. SURETY LICENSES c/: DC, IA, NE, ND, SD, WI. INCORPORATED IN: Minnesota.

Trinity Universal Insurance Company. BUSINESS ADDRESS: Post Office Box 655028, Dallas, TX 75265-5028. UNDERWRITING LIMITATION b/: $29,671,000. SURETY LICENSES c/: AL, AZ, AR, CA, CO, GA, IL, IN, IA, KS, KY, LA, MI, MS, MO, NE, NM, OH, OK, TX, WY. INCORPORATED IN: Texas.

Trinity Universal Insurance Company of Kansas, Inc. BUSINESS ADDRESS: P.O. Box 655028, Dallas, TX 75265-5028. UNDERWRITING LIMITATION b/: $618,000. SURETY LICENSES c/: AL, AZ, CO, KS, KY, LA, MO, NE, OH, OK, TX. INCORPORATED IN: Kansas.

Twin City Fire Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. UNDERWRITING LIMITATION b/: $7,097,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

U.S. Capital Insurance Company.8/ BUSINESS ADDRESS: 4 West Red Oak Lane, White Plains, NY 10604-3602. UNDERWRITING LIMITATION b/: $2,177,000. SURETY LICENSES c/: AZ, CA, FL, GA, ID, IN, LA, MD, MI, NY, ND, PA, TN, TX, UT, WI. INCORPORATED IN: NEW YORK.

See Footnotes at end of Circular.

ULICO CASUALTY COMPANY. BUSINESS ADDRESS: 111 Massachusetts Avenue, NW, Washington, DC 20001. UNDERWRITING LIMITATION b/: $5,086,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Underwriters Indemnity Company. BUSINESS ADDRESS: 8 Greenway Plaza, SUITE: 400, Houston, TX 77046. UNDERWRITING LIMITATION b/: $384,000. SURETY LICENSES c/: AL, CA, CO, GA, IL, IN, KS, KY, LA, MS, MO, MT, NE, NV, NM, ND, OH, OK, SD, TN, TX, UT, WV, WI, WY. INCORPORATED IN: Texas.

Unigard Security Insurance Company. BUSINESS ADDRESS: 15805 N.E. 24th Street, Bellevue, WA 98008-2409. UNDERWRITING LIMITATION b/: $5,961,000. SURETY LICENSES c/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, IN, IA, KS, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Washington.

Union Insurance Company. BUSINESS ADDRESS: P.O. Box 80439, Lincoln, NE 68501. UNDERWRITING LIMITATION b/: $2,089,000. SURETY LICENSES c/: AR, CO, DC, ID, IA, KS, MD, MN, MO, MT, NE, ND, OK, SD, TX, UT, VA, WA, WY. INCORPORATED IN: Nebraska.

United Capitol Insurance Company.9/ BUSINESS ADDRESS: 1400 Lake Hearn Drive, Atlanta, GA 30319. UNDERWRITING LIMITATION b/: $6,688,000. SURETY LICENSES c/: AZ, WI. INCORPORATED IN: Wisconsin.

United Coastal Insurance Company. BUSINESS ADDRESS: P.O. Box 2350, 233 Main Street, New Britain, CT 06050-2350. UNDERWRITING LIMITATION b/: $3,277,000. SURETY LICENSES c/: AZ. INCORPORATED IN: Arizona.

United Fire & Casualty Company. BUSINESS ADDRESS: P.O. Box 73909, Cedar Rapids, IA 52407. UNDERWRITING LIMITATION b/: $10,586,000. SURETY LICENSES c/: AK, AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NJ, NM, NY, ND, OH, OK, OR, SC, SD, TX, UT, WA, WI, WY. INCORPORATED IN: Iowa.

UNITED NATIONAL INSURANCE COMPANY. BUSINESS ADDRESS: Three Bala Plaza East, SUITE: 300, Bala Cynwyd, PA 19004. UNDERWRITING LIMITATION b/: $9,862,000. SURETY LICENSES c/: PA. INCORPORATED IN: Pennsylvania.

See Footnotes at end of Circular.

United Pacific Insurance Company. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, PA 19103. UNDERWRITING LIMITATION b/: $37,592,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

United Pacific Insurance Company of New York. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, PA 19103. UNDERWRITING LIMITATION b/: $1,359,000. SURETY LICENSES c/: NY. INCORPORATED IN: New York.

United States Fidelity and Guaranty Company. BUSINESS ADDRESS: Post Office Box 1138, 100 Light Street, Baltimore, MD 21203. UNDERWRITING LIMITATION b/: $71,354,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

UNIVERSAL BONDING INSURANCE COMPANY. BUSINESS ADDRESS: 518 Stuyvesant Avenue, Lyndhurst, NJ 07071. UNDERWRITING LIMITATION b/: $578,000. SURETY LICENSES c/: NJ. INCORPORATED IN: New Jersey.

UNIVERSAL INSURANCE COMPANY. BUSINESS ADDRESS: G.P.O. Box 71338, San Juan, PR 00936. UNDERWRITING LIMITATION b/: $2,989,000. SURETY LICENSES c/: PR. INCORPORATED IN: Puerto Rico.

Universal Surety Company. BUSINESS ADDRESS: Post Office Box 80468, Lincoln, NE 68501. UNDERWRITING LIMITATION b/: $1,493,000. SURETY LICENSES c/: AZ, CO, ID, IL, IA, KS, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, WI, WY. INCORPORATED IN: Nebraska.

Universal Surety of America. BUSINESS ADDRESS: P.O. Box 701279, Houston, TX 77270. UNDERWRITING LIMITATION b/: $388,000. SURETY LICENSES c/: AL, AR, CO, FL, KS, LA, MS, MO, OK, TN, TX. INCORPORATED IN: Texas.

UNIVERSAL UNDERWRITERS INSURANCE COMPANY. BUSINESS ADDRESS: 6363 College Blvd., Overland Park, KS 66211. UNDERWRITING LIMITATION b/: $36,982,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

See Footnotes at end of Circular.

Utica Mutual Insurance Company. BUSINESS ADDRESS: P.O. Box 530, Utica, NY 13503. UNDERWRITING LIMITATION b/: $9,236,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Valley Forge Insurance Company. BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. UNDERWRITING LIMITATION b/: $13,863,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

VAN TOL SURETY COMPANY, INCORPORATED. BUSINESS ADDRESS: 424 Fifth Street, Brookings, SD 57006. UNDERWRITING LIMITATION b/: $160,000. SURETY LICENSES c/: SD. INCORPORATED IN: South Dakota.

Vigilant Insurance Company. BUSINESS ADDRESS: P.O. Box 1615, 15 Mountain View Road, Warren, NJ 07061-1615. UNDERWRITING LIMITATION b/: $23,787,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Washington International Insurance Company. BUSINESS ADDRESS: 1930 Thoreau Drive, SUITE: 101, Schaumburg, IL 60173. UNDERWRITING LIMITATION b/: $809,000. SURETY LICENSES c/: AL, AZ, CA, CO, DC, FL, GA, ID, IL, IN, KY, LA, MD, MA, MI, MS, MO, NV, NM, NY, NC, ND, OH, OR, PA, SC, TN, TX, VA, WA. INCORPORATED IN: Arizona.

West American Insurance Company. BUSINESS ADDRESS: 136 North Third Street, Hamilton, OH 45025. UNDERWRITING LIMITATION b/: $51,241,000. SURETY LICENSES c/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NV, NJ, NM, NY, NC, ND, OH, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: California.

Westchester Fire Insurance Company. BUSINESS ADDRESS: 211 Mt. Airy Road, Basking Ridge, NJ 07920. UNDERWRITING LIMITATION b/: $24,155,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

See Footnotes at end of Circular.

Western Surety Company. BUSINESS ADDRESS: P.O. Box 5077, Sioux Falls, SD 57117-5077. UNDERWRITING LIMITATION b/: $2,375,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Dakota.

Westfield Insurance Company. BUSINESS ADDRESS: P.O. Box 5001, Westfield Ctr., OH 44251-5001. UNDERWRITING LIMITATION b/: $17,321,000. SURETY LICENSES c/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Westfield National Insurance Company. BUSINESS ADDRESS: P.O. Box 5001, Westfield Ctr., OH 44251-5001. UNDERWRITING LIMITATION b/: $4,951,000. SURETY LICENSES c/: CA, IA, OH. INCORPORATED IN: Ohio.

WINTERTHUR REINSURANCE CORPORATION OF AMERICA. BUSINESS ADDRESS: Two World Financial Center, 225 Liberty Street, 42nd Floor, New York, NY 10281. UNDERWRITING LIMITATION b/: $17,821,000. SURETY LICENSES c/: AL, AZ, CA, DE, DC, IL, IN, IA, KY, MI, MN, MT, NE, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, WA, WV, WI. INCORPORATED IN: NEW YORK.

ZENITH INSURANCE COMPANY. BUSINESS ADDRESS: 21255 Califa Street, Woodland Hills, CA 91367. UNDERWRITING LIMITATION b/: $13,110,000. SURETY LICENSES c/: AZ, AR, CA, CO, HI, ID, NM, OR, TX, UT. INCORPORATED IN: CALIFORNIA.

See Footnotes at end of Circular.

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE REINSURING COMPANIES UNDER SECTION 223.3(b) OF TREASURY CIRCULAR NO. 297, REVISED SEPTEMBER 1, 1978 [See Note (e)]

Belvedere America Reinsurance Company.
BUSINESS ADDRESS: 110 William Street, New York, NY 10038.
UNDERWRITING LIMITATION b/: $3,326,000.

FOLKSAMERICA REINSURANCE COMPANY. BUSINESS ADDRESS: 90 William Street, New York, NY 10038. UNDERWRITING LIMITATION b/: $4,951,000.

Frankona Reinsurance Company, U.S. Branch.
BUSINESS ADDRESS: P.O. Box 419069, Kansas City, MO 64141-6069. UNDERWRITING LIMITATION b/: $8,979,000.

Generali - U.S. Branch. BUSINESS ADDRESS: One Liberty Plaza, New York, NY 10006. UNDERWRITING LIMITATION b/: $7,331,000.

Munich Reinsurance Company, U.S. Branch.
BUSINESS ADDRESS: 560 Lexington Ave., New York, NY 10022.
UNDERWRITING LIMITATION b/: $40,180,000.

Swiss Reinsurance Company, U.S. Branch.
BUSINESS ADDRESS: 237 Park Avenue, New York, NY 10017.
UNDERWRITING LIMITATION b/: $42,693,000.

Tokio Marine and Fire Insurance Company, Limited (The), U.S. Branch. BUSINESS ADDRESS: 101 Park Avenue, New York, NY 10178. UNDERWRITING LIMITATION b/: $11,922,000.

Zurich Insurance Company, U.S. Branch.
BUSINESS ADDRESS: 1400 American Lane, Schaumburg, IL 60196.
UNDERWRITING LIMITATION b/: $50,455,000.

See Footnotes at end of Circular.

FOOTNOTES

1/ Alliance Assurance Company of America became domiciled in New York effective January 1, 1992. It formerly held a Treasury Certificate of Authority as an Acceptable Reinsuring Company under Treasury Department Circular 297, Section 223.3(b), as Alliance Assurance Company, Limited, U. S. Branch.

2/ American Bonding Company changed its State of Domicile from Nebraska to Arizona, effective November 8, 1991.

3/ Contractor's Bonding and Insurance Company is required by State law to conduct business in the State of California as CBIC Bonding and Insurance Company.

4/ Gramercy Insurance Company changed its State of Domicile from Texas to Delaware effective December 31, 1991.

5/ The London Assurance of America Inc. became domiciled in New York effective January 1, 1992. It formerly held a Treasury Certificate of Authority as an Acceptable Reinsuring Company under Treasury Department Circular 297, Section 223.3(b), as The London Assurance, U. S. Branch.

6/ The Sea Insurance Company of America became domiciled in New York effective January 1, 1992. It formerly held a Treasury Certificate of Authority as an Acceptable Reinsuring Company under Treasury Department Circular 297, Section 223.3(b), as The Sea Insurance Company, Limited, U. S. Branch.

7/ Sun Insurance Office of America Inc. became domiciled in New York effective January 1, 1992. It formerly held a Treasury Certificate of Authority as an Acceptable Reinsuring Company under Treasury Department Circular 297, Section 223.3(b), as Sun Insurance Office, Limited, U. S. Branch.

8/ U.S. Capital Insurance Company is required by State law to conduct business in the State of California as U.S. Capital Insurance Company DBA MultiPlus Insurance Co.

9/ United Capitol Insurance Company is an approved surplus lines carrier in all fifty states. Such approval may indicate that the Company is authorized to write surety in a particular state, even though the Company is not licensed in the State. Questions related to this, may be directed to the appropriate State Insurance Department.

10/ Frontier Insurance Company is required by State law to conduct business in the States of Arkansas, Florida, Iowa, Nevada, North Dakota, Texas and Utah as Frontier Insurance Company DBA Frontier Insurance Company of New York.

NOTES

(a) All Certificates of Authority expire June 30, and are renewable July 1, annually. Companies holding Certificates of Authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.

(b) The Underwriting Limitations published herein are on a per bond basis. Treasury requirements do not limit the penal sum (face amount) of bonds which surety companies may provide. However, when the penal sum exceeds a company's Underwriting Limitation, the excess must be protected by co-insurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised September 1, 1978 (31 CFR Section 223.10, Section 223.11). Treasury refers to a bond of this type as an Excess Risk. When Excess Risks on bonds in favor of the United States are protected by reinsurance, such reinsurance is to be effected by use of a Federal reinsurance form to be filed with the bond or within 45 days thereafter. In protecting such excess risks, the underwriting limitation in force on the day in which the bond was provided will govern absolutely.

(c) A surety company must be licensed in the State or other area in which it provides a bond, but need not be licensed in the State or other area in which the principal resides or where the contract is to be performed [28 Op. Atty. Gen. 127, Dec. 24, 1909; 31 CFR Section 223.5 (b)]. The term "other area" includes the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands.

License information in this Circular is provided to the Treasury Department by the companies themselves. For updated license information, you may contact the company directly or the applicable State Insurance Department. For further assistance, contact the Surety Bond Branch.

(d) FEDERAL PROCESS AGENTS: Treasury approved surety companies are required to appoint Federal process agents in accord with 31 U.S.C. 9306 and 31 CFR 224 in the following districts: Where the principal resides; where the obligation is to be performed; and in the District of Columbia where the bond is returnable or filed. No process agent is required in the State or other area where the company is incorporated (31 CFR Section 224.2). The name and address of a particular surety's process agent in a particular Federal Judicial District may be obtained from the Clerk of the U.S. District Court in that district. (The appointment documents are on file with the clerks.) (NOTE: A surety company's underwriting agent who furnishes its bonds may or may not be its authorized process agent.)

SERVICE OF PROCESS: Process should be served on the Federal process agent appointed by a surety in a judicial district, except where the appointment of such agent is pending or during the

absence of such agent from the district. Only in the event an agent has not been duly appointed, or the appointment is pending, or the agent is absent from the district, should process be served directly on the Clerk of the court pursuant to the provisions of 31 U.S.C. 9306.

(e) Companies holding Certificates of Authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds.

(f) Some companies may be approved surplus lines carriers in various states. Such approval may indicate that the company is authorized to write surety in a particular state, even though the company is not licensed in the state. Questions related to this may be directed to the appropriate State Insurance Department.

[FR Doc. 92-15369 Filed 6-30-92; 8:45 am]
BILLING CODE 4910-35-C

federal register

Wednesday
July 1, 1992

Part III

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710 of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved the mediated Tribal-State Gaming Compact of 1992 between the Lac du Flambeau Band of Lake Superior Chippewa and the State of Wisconsin selected on January 30, 1992.

DATES: This action is effective July 1, 1992.

ADDRESSES: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS/MIB 4603, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ronal Eden, Bureau of Indian Affairs, Washington, DC 20240, (202) 208–3463.

Dated: June 23, 1992.

Ronal Eden,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 92–15266 Filed 6–30–92; 8:45 am]

BILLING CODE 4310–02–M

federal register

Wednesday
July 1, 1992

Part IV

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice

DEPARTMENT OF THE INTERIOR

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved a Tribal-State Gaming Compact entitled an Agreement between the Assiniboine and Sioux Tribes of the Fort Peck Reservation and the State of Montana concerning Video Keno, Poker and Bingo Games, Simulcast Racing and Other Class III Gaming executed on April 6, 1992.

DATES: July 1, 1992.

ADDRESSES: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS/MIB 4603, 1849 "C" Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ronal Eden, Bureau of Indian Affairs, Washington , DC 20240, (202) 208–3463.

Dated: June 24, 1992.

Ronal Eden,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 92–15356 Filed 6–30–92 8:45 am]

BILLING CODE 4310–02–M

federal register

Wednesday
July 1, 1992

Part V

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Schedule of Limits on Home Health Agency Costs Per Visit for Cost Reporting Periods Beginning on or After July 1, 1992; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR PART 413

[BPD-757-NC]

RIN 0938-AF80

Medicare Program; Schedule of Limits on Home Health Agency Costs Per Visit for Cost Reporting Periods Beginning On or After July 1, 1992

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice with comment period.

SUMMARY: This notice sets forth a revised schedule of limits on home health agency costs that may be paid under the Medicare program. This revised schedule of limits applies to cost reporting periods beginning on or after July 1, 1992. As required by section 4207(d)(3)(B) of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508), this revised schedule of limits incorporates a blended hospital wage index.

DATES: *Effective date:* The schedule of limits is effective for cost reporting periods beginning on or after July 1, 1992.

COMMENT DATE: Written comments will be considered if we receive them at the appropriate address, as provided below, and must be received by 5 p.m. on August 31, 1992.

ADDRESSES: Mail comments to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attn: BPD-757-NC, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201.

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Due to staffing and resource limitations, we cannot accept audio, visual, or facsimile (FAX) copies of comments. However, HCFA will take appropriate steps, where necessary, to afford individuals with handicaps an equal opportunity to comment.

In commenting, please refer to file code BPD-757-NC. Comments will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in room 309-G of the Department's offices at 200 Independence Avenue, SW., Washington DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Phone: 202-690-7890).

Copies: To order copies of the **Federal Register** containing this document, send your request to: Government Printing Office, ATTN: New Order, P.O. Box 371954, Pittsburgh, PA 15250-7954.

Specify the date of the issue requested and enclose a check payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 783-3238 or by faxing to (202) 275-6802. The cost for each copy (in paper or microfiche form) is $1.50. In addition, you may view and photocopy the **Federal Register** document at most libraries designated as U.S. Government Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**. Ask the order desk operator for the location of the Government Depository Library nearest to you.

FOR FURTHER INFORMATION CONTACT: Michael Bussacca, (410) 966-4602.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1861(v)(1)(A) of the Social Security Act (the Act) authorizes the Secretary to establish limits on allowable costs incurred by a provider of services that may be paid under the Medicare program, based on estimates of the costs necessary for the efficient delivery of needed health services. The limits may be applied to direct or indirect overall costs or to the costs incurred for specific items or services furnished by the provider. This statutory provision is implemented in the regulations at § 413.30. Additional provisions, specifically governing the limits applicable to home health agencies (HHAs), are contained at section 1861(v)(1)(L) of the Act. Under this authority, we have maintained limits on HHA per-visit costs since 1979.

On November 5, 1990, the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) was enacted. Section 4207(d)(1) of Public Law 101-508 amended section 1861(v)(1)(L)(iii) of the Act to require that in establishing the HHA schedule of limits we are to use the most current hospital wage index. However, to lessen the effect on individual HHAs that would be caused by changing from the 1982 hospital wage data to the 1988 hospital wage data, section 4207(d)(3)(A) of Public Law 101-508 specifies that for cost reporting periods beginning on or after July 1, 1991 and before June 30, 1992, the applicable wage index is to consist of a blend of indices based on hospital wages and wage-related costs from 1982 and 1988. Specifically, for cost reporting periods beginning on or after July 1, 1991 and before July 1, 1992, 67 percent of the wage index value is to be based on the 1982 hospital wage survey data now in use for HHAs and 33 percent is to be based on the 1988 hospital wage survey data. On December 9, 1991, we published a schedule of HHA cost limits in the **Federal Register** (56 FR 64256) that implemented the above provision.

Section 4207(d)(3)(B) of Public Law 101-508 sets forth the applicable wage index for cost reporting periods beginning on or after July 1, 1992 and before June 30, 1993. The provision states that, for that period, the blend is to be based on 33 percent of the 1982 hospital wage survey data and 67 percent of the 1988 hospital wage survey data. This notice with comment period implements this provision. For periods beginning on or after July 1, 1993, we will use the most recent hospital wage survey data in effect at the time.

Section 4207(d)(1) of Public Law 101-508 also revised section 1861(v)(1)(L)(iii) of the Act to specify that in applying the hospital wage index to HHAs, no adjustments are to be made to account for rural counties that have been deemed urban counties under section 1886(d)(8)(B) of the Act. In addition, no adjustments are to be made for any reclassifications resulting from decisions of the Medicare Geographic Classification Review Board under section 1886(d)(10) of the Act.

II. Application of Cost Limits on a Budget-Neutral Basis

Section 4207(d)(2) of Public Law 101-508 requires that, in updating the wage index, aggregate payments to home health agencies would remain the same as they would have been if the wage index had not been updated. Therefore, overall payments to home health agencies are not affected by the changes in the wage index values.

In order to ensure budget neutrality, an adjustment must be made to the payments that would otherwise be made to home health agencies for the period beginning July 1, 1992. We determined that the wage index should be increased by a factor of 1.059 to keep payments at the level at which they would have been if the 1982 hospital wage index continued to be used to compute payment limits. This factor was derived by first computing the amount of program savings that would have

resulted from the cost limits effective July 1, 1992 if the 1982 hospital wage index were used. Then, program savings were computed using the blended wage index required by section 4207(d)(3)(B) of Public Law 101–508. The use of the blended wage index resulted in higher savings, and therefore, lower program payments. Increasing the blended wage index by 1.59 percent results in the same program savings as would have been realized had we used the 1982 hospital wage index to calculate the limits. (See the example for calculating the special labor adjustment for budget neutrality for the occupational therapy limit in section VII.A below).

III. Use of Settled Cost Reports

The latest settled cost data available were used to develop these HHA cost limits. Previous HHA databases included data from both settled and as-submitted cost reports. The settled cost reports were settled based on either a desk review or a field audit after desk review. All cost reports that are submitted by providers are desk reviewed by the fiscal intermediary for accuracy and for consistency with Medicare rules. Based on this review, the intermediary may make adjustments to the cost data or other data on the as-submitted cost reports (for example, reducing the number of reported visits). In some cases, the desk-reviewed cost report is then settled by the intermediary and a Notice of Amount of Program Reimbursement (NPR) is sent to the provider. In other cases, the desk-reviewed cost report is subject to additional review, which may include a field audit by the intermediary, before settlement is completed and an NPR is issued.

Due to the length of time involved in receiving settled cost report data in HCFA for use in determining HHA cost limits, previous HHA cost limits were developed using a significant number of as-submitted cost reports. Consequently, the cost limits did not reflect adjustments that were made to the as-submitted cost reports during the settlement process, such as the elimination of nonallowable cost or non-covered visits. Thus, cost limits based on these data may have been higher than they would have been if we were to use data from settled cost reports only. On the other hand, basing cost limits on as-submitted cost reports enabled us to reflect events such as the recent nursing shortages that often cause rapid changes in health care costs trends.

We are only using settled cost report data in this notice because the current Contractor Performance Evaluation Program (CPEP) standards require Medicare fiscal intermediaries to settle the HHA cost reports sooner than was required under the former standards. Consequently, settled data are available much sooner than in previous cost years and, unlike the settled cost report data available in prior years, the settled cost report data used for this notice more accurately reflect current conditions in the health care industry. The use of the settled cost reports also allows us to eliminate misstated data including nonallowable costs and noncovered visits that inevitably resulted from using as-submitted cost reports.

IV. Update of Limits

The methodology used to develop the schedule of limits set forth in this notice is the same as that used in setting the limits effective July 1, 1991, published in the **Federal Register** (56 FR 64256) on December 9, 1991. The cost limits have been updated to reflect the cost increases occurring between the cost reporting periods for the data contained in the data base and December 31, 1992, the midpoint of the first cost reporting period to which the limits apply.

A. Data Used

To develop the schedule of limits effective July 1, 1991, we extracted actual cost per visit data from Medicare cost reports for periods ending on or after October 31, 1987 and before October 31, 1988. We then adjusted the data using the latest available market basket factors to reflect cost increases occurring between the cost reporting periods contained in our data base and December 31, 1991. In this notice, we have updated the limits by again using the data from cost reporting periods ending on or after October 31, 1987 and before October 1, 1988, as adjusted by the most recent market basket factors, to reflect cost increases occurring between the cost reporting periods contained in the data base and December 31, 1992, the midpoint of the first cost reporting period to which these July 1, 1992 limits apply.

Even though these are the most recent data available at this time, we recognize that the provisions of section 1891(a) of the Act, which require changes in home health aide training and certification effective July 1, 1989, will result in some HHAs incurring costs that will not be reflected in the cost limits. It is not possible for us to estimate the overall impact, if any, this provision will have on an HHA's total costs. However, this change will present a problem only if the HHA's costs exceed the cost limits as a result of these additional training requirements. Moreover, as we indicated in our June 30, 1989 notice concerning HHA cost limits (54 FR 27742), HHAs may present documentation justifying payment of additional amounts in excess of the cost limits.

In addition, we are aware that HHAs will be incurring additional costs due to the universal precaution requirements of the Occupational Safety and Health Administration (OSHA). OSHA published a final rule in the **Federal Register** on December 6, 1991 (54 FR 64004) that set forth a standard under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) to eliminate or minimize occupational exposure to bloodborne pathogens. The rule includes requirements relating to employee vaccinations against bloodborne diseases, staff training on universal precautions, and the use of protective equipment (gloves, aprons, masks, etc.). While the limits set forth in this notice use the most recent cost report data available, we recognize that the new OSHA standards, which are effective March 6, 1992, will result in some HHAs incurring costs that are not reflected in the cost limits. We understand that all states will have to be in compliance with these regulations. Based on a multi-sector survey conducted by OSHA, about 15 percent of all home health establishments were estimated to incur no cost, since employees were not exposed to blood or other potentially infectious materials.

Based upon our review of the OSHA regulation, OSHA data, and additional information obtained from the OSHA staff, we have determined that HHAs will incur average costs of $.14 per visit in meeting these requirements. Therefore, we are providing for an add-on to the HHA cost limits in the amount of $.14 per visit for those HHAs that incur costs associated with the additional requirements of the OSHA regulation. This add-on is necessary because the data base used to calculate the HHA cost limit does not reflect these costs.

If, as a result of the additional OSHA requirements, an HHA's costs still exceed the cost limit after the add-on, the HHA can apply for an exception to the cost limits under the exceptions process outlined in § 413.30. This situation could be recognized as an "extraordinary circumstance" as defined at § 413.30(f)(2). HCFA will grant an exception to the extent that the costs, in excess of the limit, are reasonable; actually incurred in the implementation of the additional requirements; separately identified by the HHA; and verified by the intermediary.

When HCFA updates the HHA cost limits in the future, using a later data base that includes the costs of complying with the OSHA standards, an add-on will no longer be needed because the updated limits would include those costs in the basic cost limit.

B. Wage Index

The wage index is used to adjust the labor-related portion of the limits and the administrative and general (A&G) add-on to reflect differing wage levels among areas. In setting this schedule of limits, we used a blend of the HCFA hospital wage indices that were developed based on 1982 and 1988 hospital salary data.

The methodology for developing these wage indices is described in the October 18, 1988 **Federal Register** (53 FR 40771). The 1982 wage index has been updated to include corrections submitted by hospitals and to reflect the new Metropolitan Statistical Area (MSA) created by the Office of Management and Budget, effective June 30, 1990. The new MSA is Yuma, Arizona. It was included in the December 9, 1991 schedule of limits.

We are continuing to incorporate exceptions to the MSA classification system for certain New England counties that were identified in the December 9, 1991 notice. These exceptions have been recognized in setting hospital cost limits for cost reporting periods beginning on and after July 1, 1979 (45 FR 41218), and were authorized under section 601(g) of the Social Security Amendments of 1983 (Pub. L. 98–21). That section requires that any area that was classified as being in an urban area under the classification system in effect in 1979 will be considered urban for the purposes of the hospital prospective payment system. This provision is intended to ensure equitable treatment under the hospital prospective payment system. Under this authority, the following counties have been deemed to be urban areas for purposes of payment under the inpatient hospital prospective payment system:

- Litchfield County, CT in the Hartford-New Britain-Middleton-Bristol, CT MSA.
- York County, ME and Sagadahoc County, ME in the Portland, ME MSA.
- Merrimack County, NH in the Manchester-Nashua, NH MSA.
- Newport County, RI in the Providence-Pawtucket-Woonsocket, RI MSA.

We are continuing to grant these urban exceptions for the purpose of applying the HCFA hospital wage index to the HHA cost limits. These exceptions result in the same New England County Metropolitan Area (NECMA) definitions for hospitals, SNFs, and HHAs. In New England, MSAs are defined on town boundaries rather than on county lines. NECMAs are defined on county lines but exclude parts of the four counties cited above that would be considered urban under the MSA definition. Under this notice, those four counties are urban under either definition, NECMA or MSA.

V. Provisions of the HHA Schedule of Limits

The schedule of limits set forth below was calculated using 112 percent of the mean cost of free-standing HHAs and is adjusted by the latest estimates in the market basket index.

The schedule of limits effective for cost reporting periods beginning on or after July 1, 1992 is based on the latest settled cost data available and provides for the following:

A. A classification system based on whether an HHA is located within an MSA, a New England County Metropolitan Area (NECMA) or a non-MSA area. (See Tables IIIa and IIIb in section IX, below, for the listing of MSAs/NECMAs and rural areas.)

B. The use of a single schedule of limits for hospital-based and free-standing agencies. This single limit is based on the cost experience of free-standing agencies. For each hospital-based discipline, we are providing for an add-on adjustment to the free-standing HHA limit (which is equal to 11.52 percent of the mean cost for the MSA hospital-based group and 12.09 percent for the non-MSA hospital-based group) to account for the higher administrative and general (A&G) costs resulting from Medicare cost allocation requirements. The labor-related portion of the add-on, adjusted by the appropriate wage index, plus the nonlabor portion, is added to each free-standing limit to determine the per discipline limits for hospital-based agencies. We are currently evaluating the utility of differential payments to home health agencies.

C. The use of the following market basket index was developed from the price of goods and services purchased by HHAs to account for the impact of changing wage and price levels on HHA costs. The limit values contained in this schedule reflect the latest available actual and projected rates of inflation in HHA expenses. The categories used were identified through an analysis of 1976 Medicare cost reports and other available home health industry surveys. The categories of expenses are weighted according to the estimated proportion of HHA costs attributable to each category. The categories used in the market basket contained in this schedule have not changed from those used for the July 1, 1991 schedule. However, the relative cost shares used change over time because of differences in the rate of increase in the various price variables. Categories with higher rates of price increases receive higher weights and categories with lower rates of price increases receive lower weights.

In developing the relative weights used in the market basket index contained in this schedule, we obtained historical and projected rates of increase in the resource prices for each category. The price variables source of the forecast for calendar years 1988 through 1994 are identified in the third column of the updated market basket included in this notice.

HOME HEALTH AGENCY INPUT PRICE INDEX: COST CATEGORIES, RELATIVE IMPORTANCE, FORECASTERS, AND PRICE VARIABLES USED

Cost categories	Relative importance 1993 [1]	Price variables used [2]
Wages and Salaries	68.8	Average hourly earnings of nonsupervisory private hospital workers (SIC 806). Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Employment and Earnings (Monthly).
Employee benefits	7.3	Supplements to wages and salaries per worker in nonagriculture establishments. Source: For supplements to wages and salaries—U.S. Dept. of Commerce, Bureau of Economic Analysis, Survey of Current Business (monthly). For total employment—U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review
Transportation	3.9	Transportation component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.

HOME HEALTH AGENCY INPUT PRICE INDEX: COST CATEGORIES, RELATIVE IMPORTANCE, FORECASTERS, AND PRICE VARIABLES USED—Continued

Cost categories	Relative importance 1993 [1]	Price variables used [2]
Office Costs	2.8	Services Component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
Medical Nursing	2.4	Medical equipment and supplies component of the supplies and rental Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
Rent	1.1	Residential rent component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor Statistics, Monthly Labor Review.
Nonrental Space	1.0	Composite Fuel and Utilities Index. Source: HHS–HCFA Community Hospital Price Index.
Miscellaneous	5.8	Consumer Price Index for all items, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
Contract Services	6.9	Weighted mean of price variables for the preceding eight items.
Total	100.0	

[1] Relative cost weights were derived initially from special studies by HCFA using data primarily from 1976 HCFA Medicare costs reports and data from the Council of Home Health Agencies and Community Health Services. A Laspeyres price index was constructed using these 1976 weights and the price variables indicated in this table. The relative importance values have changes over time in accordance with price changes for each price variable. Cost categories with relatively higher price increases get higher relative importance values and vice versa.

[2] Forecast by DRI/McGraw Hill Health Care Costs, Fourth Quarter, 1991, 1750 K St. NW., Washington DC 20006.

D. An adjustment to the limits if the estimated market basket rate differs from the actual rate by more than 3/10 of one percentage point (higher or lower).

E. The use of a blended hospital wage index. The wage index is used to adjust the labor-related portion of the limits and the A&G add-on to reflect differing wage levels among the areas (MSA or NECMA and non-MSA) in which HHAs are located. The employee wage portion of the market basket index (68.8 percent) and the employee benefits portion (7.3 percent), plus a factor representing a proportionate share of contract services (5.6 percent), are used to determine the labor component (81.7 percent) of all HHA per visit costs used to set the limits.

F. Separate treatment of the labor-related and nonlabor components of per visit costs. The separate components of costs are calculated by obtaining actual HHA cost data for each agency for cost periods ending on or after October 31, 1987 and before October 1, 1988 and increasing those data by the actual and projected increases in the HHA market basket. We then separate each HHA's per visit costs into labor and nonlabor portions, and divide the labor portion by the wage index value for the agency's location to control for the effect of geographic variations in prevailing wage levels. Separate means are computed for the labor and nonlabor components of per visit costs. For each comparison group, the resulting amounts are shown in Table I of section VIII, below.

G. The application of a cost-of-living adjustment to the nonlabor portion of the limit for HHAs located in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands.

H. Limits that are determined for the per visit cost of each type of home health service: skilled nursing care, physical therapy, speech pathology, occupation therapy, medical social services, and home health aide.

I. Application of the limits in the aggregate after the HHA's actual costs are adjusted. An HHA's actual costs are adjusted for individual items of cost that are found to be excessive under Medicare principles of provider payment and for costs that are not included in the limitation amount. The limits are applied in the aggregate to the costs remaining after these adjustments are made. Payment is limited to the lower of the actual costs or the cost limits.

VI. Methodology for Determining Cost per Visit Limits

A. Data

For this notice, the cost limit values were determined by extracting settled actual cost per visit data from Medicare cost reports for periods ending on or after October 31, 1987 and before October 1, 1988. We then adjusted the data using the latest available market basket factors to reflect cost increases occurring between the cost reporting periods contained in our data base and December 31, 1992, the midpoint of the first cost reporting period to which these limits apply. The following annual percentage increases were used to compute the per visit costs:

Calendar year	Percent increase
1987	[1] 4.5
1988	[1] 6.0
1989	[1] 6.1
1990	[1] 5.2
1991	[2] 5.7
1992	[2] 5.3
1993	[2] 5.6
1994	[2] 5.0

[1] Final rate of increase.

[2] Forecasted increases. The projected rate of increase in the market basket index will be adjusted to the actual inflation rate if the actual rate of increase differs from the estimated rate by more than 3/10 of one percentage point. We will notify the Medicare intermediaries of the actual rate of increase and advise them to adjust each HHA's cost limit.

B. Standardization for Wage Levels

After adjustment by the market basket index, we divided each HHA's per visit-costs into labor and nonlabor portions. The labor portion of costs (81.7 percent) represents the 76.1 percent employee wage and benefit factor plus the 5.6 percent contract services factor from the market basket. We then divided the labor portion of per visit costs by the wage index (the blended wage index) applicable to the HHA's location to arrive at an adjusted labor cost.

C. Adjustment for "Outliers"

We transformed all per visit cost data into their natural logarithms and grouped them by type of service and MSA, NECMA, or non-MSA location, in order to determine the mean cost and standard deviation for each group. We then eliminated all "outlier" costs, retaining only those per-visit costs within two standard deviations of the mean in each service.

D. Basic Service Limit

A basic service limit equal to 112 percent of the mean labor and nonlabor portions of the per-visit costs of freestanding HHAs was calculated for each type of service. (See Table I in section VIII.)

VII. Computing the Adjusted Limit

A. Adjustment of Cost Limits by Wage Index

To arrive at the adjusted limit, which is to be applied to each service furnished by an HHA, the HHA's intermediary first determines the adjusted labor-related component by multiplying the labor-related component of the limit by the appropriate wage index. (See example below and Tables IIIa and IIIb in section IX.) The sum of the nonlabor component plus the labor-related component is the adjusted limit applicable to an HHA.

Example—Calculation of Adjusted Occupational Therapy Limit for a Freestanding HHA in Dallas, TX:

Labor component (Table I)		$71.70
Wage index Value (Table III)	×	0.9917
Labor portion		71.10
Special Labor Adjustment for Budget Neutrality	×	1.059
Adjusted Labor Portion		75.30
Nonlabor component (Table I)	+	16.56
Adjusted occupational therapy limit		91.86

B. Adjustment for Reporting Year

If an HHA has a cost reporting period beginning on or after August 1, 1992, the adjusted per visit limit for each service is revised by a factor from Table IV that corresponds to the month and year in which the cost reporting period begins. Each factor represents the compounded rate of monthly increase derived from the projected annual increase in the market basket index, and is used to account for inflation in costs that will occur after the date on which the limits become effective.

For example, if an HHA's cost reporting period begins January 1, 1993, as calculated in the example in section VII.A above, the labor-adjusted per visit limit for occupational therapy for this HHA's group is $91.86.

Computation of Revised Limit for Occupational Therapy

Adjusted per visit limit		$91.86
Adjustment factor from Table IV	×	1.0283
Revised per visit limit		94.46

In this example, the revised adjusted per visit limit for occupational therapy applicable to this HHA for the cost reporting period beginning January 1, 1993 is $94.46 per visit.

If an HHA uses a cost reporting period that is not 12 months in duration, a special calculation of the adjustment factor must be made. This results from the fact that projections are computed to the midpoint of the cost reporting period. For cost reporting periods other than 12 months in duration, the calculation must be made for the midpoint of the specific cost reporting period. In such cases, the intermediary for the HHA must obtain this adjustment factor from HCFA.

C. Adjustment for Hospital-Based Agencies

If an HHA participates in the Medicare program as part of a hospital and is required to file Form HCFA–2552 (hospital cost report), and qualifies as hospital-based in accordance with the requirements specified in the schedule of limits published June 5, 1980 (45 FR 38014), the HHA is entitled to an adjustment of the per visit limit to account for higher A&G costs resulting from the Medicare cost allocation requirements. The intermediary will compute the adjusted cost limit as described in the example following Table II.

VIII. Schedule of Limits

The schedule of limits set forth below applies to cost reporting periods beginning on or after July 1, 1992 and before July 1, 1993. The intermediaries will compute the adjusted limits using the wage index published in Tables IIIa and IIIb of section IX and will notify each HHA they service of its applicable limits.

The HHA costs that are subject to the limits include the cost of medical supplies routinely furnished in conjunction with patient care. Durable medical equipment, orthotics, prosthetics, and other medical supplies directly identifiable as services to an individual patient are excluded from the per visit costs and are paid without regard to this schedule of limits. (See Chapter IV of the Home Health Agency Manual (HCFA Pub. 11).)

The intermediary will determine the limit for each HHA by multiplying the number of Medicare visits for each type of service furnished by the HHA by the respective per visit cost limit. The sum of these amounts is compared to the HHA's total allowable cost.

Example: HHA X, a free-standing agency located in Richmond, VA, furnishes 5,000 covered skilled nursing visits, 2,000 covered physical therapy visits, and 4,000 covered home health aide visits to Medicare beneficiaries during its 12-month cost reporting period beginning on July 1, 1992.

The aggregate cost limit is determined as follows:

Type of visit	Visits	Nonlabor portion	Adjusted labor portion	Adjusted limit [1]	Aggregate limit
Skilled nursing	5,000	$17.08	$75.47	$92.55	$462,750
Physical therapy	2,000	16.42	72.54	88.96	177,920
Home health aide	4,000	9.23	40.58	49.81	199,240
Total visits	11,000				
Aggregate cost limit					839,910

[1] Includes special labor adjustment for budget neutrality of 1.059 percent.

As noted above in section IV.A. of this preamble, in order to account for OSHA's new universal precaution requirements, we are providing for an additional adjustment to the aggregate cost limit of $.14 per visit for those HHAs that incur costs in complying with these requirements.

In the example above, this adjustment would be calculated as follows:

Visits		11,000
OSHA Adjustment	×	$.14
		1,540
Cost Limit		839,910
Adjusted Cost Limit		841,450

Before the limits are applied during settlement of the cost report, the HHA's actual costs are reduced by the amount of individual items of cost (for example, administrative compensation and contract services) that are found to be

excessive under the Medicare principles of provider payment. That is, the intermediary reviews the various reported costs, taking into account all the Medicare payment principles; for example, the cost guidelines for physical therapy under arrangements (see 42 CFR 413.106) and the limitation on costs that are substantially out of line with those of comparable home health agencies (see 42 CFR 413.9).

TABLE I.—PER VISIT LIMITS FOR HOME HEALTH AGENCIES

Type of visit	Limit	Labor portion	Nonlabor portion [1]
MSA (NECMA) location:			
Skilled nursing care	$92.32	$75.24	$17.08
Physical therapy	88.74	72.32	16.42
Speech pathology	92.22	75.08	17.14
Occupational therapy	88.26	71.70	16.56
Medical social services	127.99	103.88	24.11
Home health aide	49.69	40.46	9.23
Non-MSA location:			
Skilled nursing care	104.11	87.52	16.59
Physical therapy	104.52	87.81	16.71
Speech pathology	112.04	94.16	17.88
Occupational therapy	112.42	94.45	17.97
Medical social services	170.42	143.17	27.25
Home health aide	52.41	44.09	8.32

[1]Nonlabor portion of limits for HHAs located in Alaska, Hawaii, Puerto Rico, and the Virgin Islands are increased by multiplying them by the following cost-of-living adjustment factors:

Location	Adjustment factor
Alaska	1.250
Hawaii:	
Oahu	1.225
Kauai	1.175
Maui, Lanai, and Molokai	1.200
Hawaii (island)	1.150
Puerto Rico	1.100
Virgin Islands	1.125

TABLE II.—ADD-ON AMOUNTS FOR HOSPITAL-BASED HOME HEALTH AGENCIES

Type of visit	A & G Add-on	Labor portion	Nonlabor
MSA (NECMA) location:			
Skilled nursing care	$12.76	$10.34	$2.42
Physical therapy	10.80	8.76	2.04
Speech pathology	11.35	9.19	2.16
Occupational therapy	10.88	8.79	2.09
Medical social services	17.49	14.07	3.42
Home health aide	6.49	5.25	1.24

TABLE II.—ADD-ON AMOUNTS FOR HOSPITAL-BASED HOME HEALTH AGENCIES—Continued

Type of visit	A & G Add-on	Labor portion	Nonlabor
Non-MSA location:			
Skilled nursing care	14.33	12.04	2.29
Physical therapy	14.20	11.94	2.26
Speech pathology	13.75	11.56	2.19
Occupational therapy	13.56	11.38	2.18
Medical social services	20.83	17.55	3.28
Home health aide	6.83	5.74	1.09

Example:

A hospital-based agency in State College, PA, has a wage index value of 1.0197. It provides skilled nursing, physical therapy, and home health aide services. The published limits for that agency are:

	Limit		Add-On	
	Labor portion	Nonlabor portion	Labor portion	Nonlabor portion
Skilled nursing	$75.24	$17.08	$10.34	$2.42
Physical therapy	72.32	16.42	8.76	2.04
Home health aide	40.46	9.23	5.25	1.24

Calculation of Hospital-Based Limit With Add-On:

	SN	PT	HHA
Limit labor portion	$75.24	$72.32	$40.46
Add-On labor portion	+ 10.34	+8.76	+ 5.25

	SN	PT	HHA
Total labor portion	85.58	81.08	45.71
Wage index value	× 1.0197	× 1.0197	× 1.0197
Labor portion	87.27	82.68	46.61
Special labor adjustment	× 1.059	× 1.059	× 1.059
Adjusted labor	92.42	87.56	49.36
Limit nonlabor	17.08	16.42	9.23
Add-On nonlabor portion	+ 2.42	+ 2.04	+ 1.24
Adjusted limits	111.92	106.02	59.83

IX. Wage Indexes

Abilene TX	0.9153
Taylor, TX	
Aguadilla, PR	0.4908
Aguada, PR	
Aguadilla, PR	
Isabella, PR	
Moca, PR	
Akron, OH	1.0028
Portage, OH	
Summit, OH	
Albany, GA	0.8099
Dougherty, GA	
Lee, GA	
Albany-Schenectady-Troy, NY	0.9037
Albany, NY	
Greene, NY	
Montgomery, NY	
Rensselaer, NY	
Saratoga, NY	
Schenectady, NY	
Albuquerque, NM	1.0448
Bernalillo, NM	
Alexandria, LA	0.8578
Rapides, LA	
Allentown-Bethlehem, PA-NJ	1.0258
Warren, NJ	1.0062
Carbon, PA	
Lehigh, PA	
Northampton, PA	
Altoona, PA	0.9767
Blair, PA	0.9505
Amarillo, TX	0.9030
Potter, TX	
Randall, TX	
Anaheim-Santa Ana, CA	1.2281
Orange, CA	
Anchorage, AK	1.4742
Anchorage, AK	
Anderson, IN	0.9689
Madison, IN	
Anderson, SC	0.7633
Anderson, SC	
Ann Arbor, MI	1.1798
Washtenaw, MI	
Anniston, AL	0.8132
Calhoun, AL	
Appleton-Oshkosh-Neenah, WI	0.9680
Calumet, WI	
Outagamie, WI	
Winnebago, WI	
Arecibo, PR	0.4665
Arecibo, PR	
Camuy, PR	
Hatillo, PR	
Quebradillas, PR	
Asheville, NC	0.8779
Buncombe, NC	
Athens, GA	0.8204
Clarke, GA	
Jackson, GA	
Madison, GA	
Oconee, GA	
Atlanta, GA	0.9624
Barrow, GA	
Butts, GA	
Cherokee, GA	
Clayton, GA	
Cobb, GA	
Coweta, GA	
De Kalb, GA	
Douglas, GA	
Fayette, GA	
Forsyth, GA	
Fulton, GA	
Gwinnett, GA	
Henry, GA	
Newton, GA	
Paulding, GA	
Rockdale, GA	
Spalding, GA	
Walton, GA	
Atlantic City, NJ	1.0533
Atlantic, NJ	
Cape May, NJ	
Augusta, GA-SC	0.9473
Columbia, GA	
McDuffie, GA	
Richmond, GA	
Aiken, SC	
Aurora-Elgin, IL	1.0120
Kane, IL	
Kendall, IL	
Austin, TX	1.0131
Hays, TX	
Travis, TX	
Williamson, TX	
Bakersfield, CA	1.1272
Kern, CA	
Baltimore, MD	1.0493
Anne Arundel, MD	
Baltimore, MD	
Baltimore City, MD	
Carroll, MD	
Harford, MD	
Howard, MD	
Queen Annes, MD	
Bangor, ME	0.9143
Penobscot, ME	
Baton Rouge, LA	0.9340
Ascension, LA	
East Baton Rouge, LA	
Livingston, LA	
West Baton Rouge, LA	
Battle Creek, MI	0.9749
Calhoun, MI	
Beaumont-Port Arthur, TX	0.9769
Hardin, TX	
Jefferson, TX	
Orange, TX	
Beaver County, PA	1.0422
Beaver, PA	
Bellingham, WA	1.0828
Whatcom, WA	
Benton Harbor, MI	0.8402
Berrien, MI	
Bergen-Passaic, NJ	1.0453
Bergen, NJ	
Passaic, NJ	
Billings, MT	0.9631
Yellowstone, MT	
Biloxi-Gulfport, MS	0.8209
Hancock, MS	
Harrison, MS	
Binghamton, NY	0.9365
Broome, NY	
Tioga, NY	
Birmingham, AL	0.9070
Blount, AL	
Jefferson, AL	
Saint Clair, AL	
Shelby, AL	
Walker, AL	
Bismarck, ND	0.9194
Burleigh, ND	
Morton, ND	
Bloomington, IN	0.9064
Monroe, IN	
Bloomington-Normal, IL	0.9059
McLean, IL	
Boise City, ID	1.0086
Ada, ID	
Boston-Lawrence-Salem-Lowell-Brockton, MA	1.1733
Essex, MA	
Middlesex, MA	
Norfolk, MA	
Plymouth, MA	
Suffolk, MA	
Boulder-Longmont, CO	1.0547
Boulder, CO	
Bradenton, FL	0.9246
Manatee, FL	
Brazoria, TX	0.9044
Brazoria, TX	
Bremerton, WA	0.9634
Kitsap, WA	
Bridgeport-Stamford-Norwalk-Danbury	1.1977
Fairfield, CT	
Brownsville-Harlingen, TX	0.8732
Cameron, TX	
Bryan-College Station, TX	0.9521
Brazos, TX	
Buffalo, NY	0.9506
Erie, NY	
Burlington, NC	0.7971
Alamance, NC	
Burlington, VT	0.9621
Chittenden, VT	
Grand Isle, VT	
Caguas, PR	0.5082
Caguas, PR	
Gurabo, PR	
San Lorenz, PR	
Aguas Buenas, PR	
Cayey, PR	
Cidra, PR	
Canton, OH	0.9239
Carroll, OH	
Stark, OH	
Casper, WY	0.9620
Natrona, WY	
Cedar Rapids, IA	0.9335
Linn, IA	
Champaign-Urbana-Rantoul, IL	0.9157
Champaign, IL	
Charleston, SC	0.8530
Berkeley, SC	
Charleston, SC	
Dorchester, SC	
Charleston, WV	0.9961
Kanawha, WV	
Putnam, WV	
Charlotte-Gastonia-Rock Hill, NC-SC	0.9327
Cabarrus, NC	
Gaston, NC	
Lincoln, NC	
Mecklenburg, NC	
Rowan, NC	
Union, NC	

York, SC	
Charlottesville, VA	0.9531
Albemarle, VA	
Charlottesville City, VA	
Fluvanna, VA	
Greene, VA	
Chattanooga, TN-GA	0.9484
Catoosa, GA	
Dade, GA	
Walker, GA	
Hamilton, TN	
Marion, TN	
Sequatchie, TN	
Cheyenne, WY	0.8511
Laramie, WY	
Chicago, IL	1.1135
Cook, IL	
Du Page, IL	
McHenry, IL	
Chico, CA	1.1482
Butte, CA	
Cincinnati, OH-KY-IN	1.0237
Dearborn, IN	
Boone, KY	
Campbell, KY	
Kenton, KY	
Clermont, OH	
Hamilton, OH	
Warren, OH	
Clarksville-Hopkinsville, TN-KY	0.7612
Christian, KY	
Montgomery, TN	
Cleveland, OH	1.1020
Cuyahoga, OH	
Geauga, OH	
Lake, OH	
Medina, OH	
Colorado Springs, CO	1.0030
El Paso, CO	
Columbia, MO	1.0017
Boone, MO	
Columbia, SC	0.9021
Lexington, SC	
Richland, SC	
Columbus, GA-AL	0.7636
Russell, AL	
Chattanoochee, GA	
Muscogee, GA	
Columbus, OH	0.9683
Delaware, OH	
Fairfield, OH	
Franklin, OH	
Licking, OH	
Madison, OH	
Pickaway, OH	
Union, OH	
Corpus Christi, TX	0.9034
Nueces, TX	
San Patricio, TX	
Cumberland, MD-WV	0.8462
Allegany, MD	
Mineral, WV	
Dallas, TX	0.9917
Collin, TX	
Dallas, TX	
Denton, TX	
Ellis, TX	
Kaufman, TX	
Rockwall, TX	
Danville, VA	0.7704
Danville City, VA	
Pittsylvania, VA	
Davenport-Rock Island-Moline, IA-IL	0.9205
Scott, IA	
Henry, IL	
Rock Island, IL	
Dayton-Springfield, OH	1.0095
Clark, OH	
Greene, OH	
Miami, OH	
Montgomery, OH	
Daytona Beach, FL	0.9014
Volusia, FL	
Decatur, AL	0.7550
Lawrence, AL	
Morgan, AL	
Decatur, IL	0.8726
Macon, IL	
Denver, CO	1.1466
Adams, CO	
Arapahoe, CO	
Denver, CO	
Douglas, CO	
Jefferson, CO	
Des Moines, IA	0.9638
Dallas, IA	
Polk, IA	
Warren, IA	
Detroit, MI	1.1131
Lapeer, MI	
Livingston, MI	
Macomb, MI	
Monroe, MI	
Oakland, MI	
Saint Clair, MI	
Wayne, MI	
Dothan, AL	0.7860
Dale, AL	
Houston, AL	
Dubuque, IA	0.9118
Dubuque, IA	
Duluth, MN-WI	0.9661
St. Louis, MN	
Douglas, WI	
Eau Claire, WI	0.8823
Chippewa, WI	
Eau Claire, WI	
El Paso, TX	0.8960
El Paso, TX	
Elkhart-Goshen, IN	0.9188
Elkhart, IN	
Elmira, NY	0.9126
Chemung, NY	
Enid, OK	0.9155
Garfield, OK	
Erie, PA	0.9440
Erie, PA	
Eugene-Springfield, OR	1.0503
Lane, OR	
Evansville, IN-KY	0.9595
Posey, IN	
Vanderburgh, IN	
Warrick, IN	
Henderson, KY	
Fargo-Moorhead, ND-MN	1.0025
Clay, MN	
Cass, ND	
Fayetteville, NC	0.8312
Cumberland, NC	
Fayetteville-Springdale, AR	0.8024
Washington, AR	
Flint, MI	1.1737
Genesee, MI	
Florence, AL	0.7754
Colbert, AL	
Lauderdale, AL	
Florence, SC	0.8186
Florence, SC	
Fort Collins-Loveland, CO	1.0447
Larimor, CO	
Ft. Lauderdale-Hollywood-Pompano Beach, FL	1.0660
Broward, FL	
Fort Myers-Cape Coral, FL	0.9716
Lee, FL	
Fort Pierce, FL	1.0772
Martin, FL	
St. Lucie, FL	
Fort Smith, AR-OK	0.8374
Crawford, AR	
Sebastian, AR	
Sequoyah, OK	
Fort Walton Beach, FL	0.8866
Okaloosa, FL	
Fort Wayne, IN	0.9129
Allen, IN	
De Kalb, IN	
Whitley, IN	
Fort Worth-Arlington, TX	0.9633
Johnson, TX	
Parker, TX	
Tarrant, TX	
Fresno, CA	1.0995
Fresno, CA	
Gadsden, AL	0.8396
Etowah, AL	
Gainesville, FL	0.9085
Alachua, FL	
Bradford, FL	
Galveston-Texas City, TX	1.0097
Galveston, TX	
Gary-Hammond, IN	1.0234
Lake, IN	
Porter, IN	
Glens Falls, NY	0.9362
Warren, NY	
Washington, NY	
Grand Forks, ND	0.9681
Grand Forks, ND	
Grand Rapids, MI	1.0149
Kent, MI	
Ottawa, MI	
Great Falls, MT	1.0241
Cascade, MT	
Greeley, CO	0.9832
Weld, CO	
Green Bay, WI	0.9838
Brown, WI	
Greensboro-Winston-Salem-High Point, NC	0.9245
Davidson, NC	
Davie, NC	
Forsyth, NC	
Guilford, NC	
Randolph, NC	
Stokes, NC	
Yadkin, NC	
Greenville-Spartanburg, SC	0.8984
Greenville, SC	
Pickens, SC	
Spartanburg, SC	
Hagerstown, MD	0.9306
Washington, MD	
Hamilton-Middletown, OH	0.9667
Butler, OH	
Harrisburg-Lebanon-Carlisle, PA	0.9908
Cumberland, PA	
Dauphin, PA	
Lebanon, PA	
Perry, PA	
Hartford-Middletown-New Britain-Bristol, CT	1.1772
Hartford, CT	
Middlesex, CT	
Tolland, CT	
Litchfield, CT	
Hickory, NC	0.8827
Alexander, NC	
Burke, NC	
Catawba, NC	
Honolulu, HI	1.1735
Honolulu, HI	
Houma-Thibodaux, LA	0.7866
Lafourche, LA	
Terrebonne, LA	
Houston, TX	1.0090
Fort Bend, TX	
Harris, TX	
Liberty, TX	
Montgomery, TX	

Waller, TX	
Huntington-Ashland, WV-KY-OH	0.9467
Boyd, KY	
Carter, KY	
Greenup, KY	
Lawrence, OH	
Cabell, WV	
Wayne, WV	
Huntsville, AL	0.8782
Madison, AL	
Indianapolis, IN	0.9937
Boone, IN	
Hamilton, IN	
Hancock, IN	
Hendricks, IN	
Johnson, IN	
Marion, IN	
Morgan, IN	
Shelby, IN	
Iowa City, IA	1.0719
Johnson, IA	
Jackson, MI	0.9850
Jackson, MI	
Jackson, MS	0.8278
Hinds, MS	
Madison, MS	
Rankin, MS	
Jackson, TN	0.7917
Madison, TN	
Jacksonville, FL	0.9200
Clay, FL	
Duval, FL	
Nassau, FL	
St. Johns, FL	
Jacksonville, NC	0.7429
Onslow, NC	
Jamestown-Dunkirk, NY	0.8001
Chautaqua, NY	
Janesville-Beloit, WI	0.8789
Rock, WI	
Jersey City, NJ	1.0727
Hudson, NJ	
Johnson City-Kingsport-Bristol, TN-VA	0.8656
Carter, TN	
Hawkins, TN	
Sullivan, TN	
Unicol, TN	
Washington, TN	
Bristol City, VA	
Scott, VA	
Washington, VA	
Johnstown, PA	0.9226
Cambria, PA	
Somerset, PA	
Joliet, IL	1.0610
Grundy, IL	
Will, IL	
Joplin, MO	0.8326
Jasper, MO	
Newton, MO	
Kalamazoo, MI	1.1927
Kalamazoo, MI	
Kankakee, IL	0.8834
Kankakee, IL	
Kansas City, KS-MO	0.9951
Johnson, KS	
Leavenworth, KS	
Miami, KS	
Wyandotte, KS	
Cass, MO	
Clay, MO	
Jackson, MO	
Lafayette, MO	
Platte, MO	
Ray, MO	
Kenosha, WI	0.9534
Kenosha, WI	
Killeen-Temple, TX	1.0486
Bell, TX	
Coryell, TX	
Knoxville, TN	0.8799
Anderson, TN	
Blount, TN	
Grainger, TN	
Jefferson, TN	
Knox, TN	
Sevier, TN	
Union, TN	
Kokomo, IN	0.9586
Howard, IN	
Tipton, IN	
LaCrosse, WI	0.9365
LaCrosse, WI	
Lafayette, LA	0.8861
Lafayette, LA	
St. Martin, LA	
Lafayette, IN	0.8681
Tippecanoe, IN	
Lake Charles, LA	0.8933
Calcasieu, LA	
Lake County, IL	1.0548
Lake, IL	
Lakeland-Winter Haven, FL	0.8402
Polk, FL	
Lancaster, PA	0.9643
Lancaster, PA	
Lansing-East Lansing, MI	1.0411
Clinton, MI	
Eaton, MI	
Ingham, MI	
Laredo, TX	0.7577
Webb, TX	
Las Cruces, NM	0.8200
Dona Ana, NM	
Las Vegas, NV	1.0845
Clark, NV	
Lawrence, KS	0.9357
Douglas, KS	
Lawton, OK	0.8754
Comanche, OK	
Lewiston-Auburn, ME	0.9185
Androscoggin, ME	
Lexington-Fayette, KY	0.8927
Bourbon, KY	
Clark, KY	
Fayette, KY	
Jessamine, KY	
Scott, KY	
Woodford, KY	
Lima, OH	0.8669
Allen, OH	
Auglaize, OH	
Lincoln, NE	0.9213
Lancaster, NE	
Little Rock-North Little Rock, AR	0.9330
Faulkner, AR	
Lonoke, AR	
Pulaski, AR	
Saline, AR	
Longview-Marshall, TX	0.8603
Gregg, TX	
Harrison, TX	
Lorain-Elyria, OH	0.9399
Lorain, OH	
Los Angeles-Long Beach, CA	1.2674
Los Angeles, CA	
Louisville, KY-IN	0.9427
Clark, IN	
Floyd, IN	
Harrison, IN	
Bulliit, KY	
Jefferson, KY	
Oldham, KY	
Shelby, KY	
Lubbock, TX	0.9241
Lubbock, TX	
Lynchburg, VA	0.8772
Amherst, VA	
Campbell, VA	
Lynchburg City, VA	
Macon-Warner Robins, GA	0.8983
Bibb, GA	
Huston, GA	
Jones, GA	
Peach, GA	
Madison, WI	1.0514
Dane, WI	
Manchester-Nashua, NH	1.0039
Hillsborough, NH	
Merrimack, NH	
Mansfield, OH	0.8906
Richland, OH	
Mayaguez, PR	0.5095
Anasco, PR	
Cabo Rojo, PR	
Hormigueros, PR	
Mayaguez, PR	
San German, PR	
McAllen-Edinburg-Mission, TX	0.7850
Hidalgo, TX	
Medford, OR	1.0155
Jackson, OR	
Melbourne-Titusville, FL	0.9265
Brevard, FL	
Memphis, TN-AR-MS	0.9543
Crittenden, AR	
De Soto, MS	
Shelby, TN	
Tipton, TN	
Merced, CA	1.0925
Merced, CA	
Miami-Hialeah, FL	1.0366
Dade, FL	
Middlesex-Somerset-Hunterdon, NJ	1.0390
Hunterdon, NJ	
Middlesex, NJ	
Somerset, NJ	
Midland, TX	1.0692
Midland, TX	
Milwaukee, WI	1.0289
Milwaukee, WI	
Ozaukee, WI	
Washington, WI	
Waukesha, WI	
Minneapolis-St Paul, MN-WI	1.1143
Anoka, MN	
Carver, MN	
Chisago, MN	
Dakota, MN	
Hennepin, MN	
Isanti, MN	
Ramsey, MN	
Scott, MN	
Washington, MN	
Wright, MN	
St. Croix, WI	
Mobile, AL	0.8527
Baldwin, AL	
Mobile, AL	
Modesto, CA	1.1759
Stanislaus, CA	
Monmouth-Ocean, NJ	0.9914
Monmouth, NJ	
Ocean, NJ	
Monroe, LA	0.8362
Ouachita, LA	
Montgomery, AL	0.8122
Autauga, AL	
Elmore, AL	
Montgomery, AL	
Muncie, IN	0.8738
Delaware, IN	
Muskegon, MI	0.9688
Muskegon, MI	
Naples, FL	1.0371
Collier, FL	
Nashville, TN	0.9409
Cheatham, TN	
Davidson, TN	

Dickson, TN	
Robertson, TN	
Rutherford, TN	
Sumner, TN	
Williamson, TN	
Wilson, TN	
Nassau-Suffolk, NY	1.3014
Nassau, NY	
Suffolk, NY	
New Bedford-Fall River-Attleboro, MA	0.9939
Bristol, MA	
New Haven Waterbury-Meriden, CT	1.1829
New Haven, CT	
New London, London-Norwich	1.1422
New London, CT	
New Orleans, LA	0.9054
Jefferson, LA	
Orleans, LA	
St. Bernard, LA	
St. Charles, LA	
St. John The Baptist, LA	
St. Tammany, LA	
New York, NY	1.3601
Bronx, NY	
Kings, NY	
New York City, NY	
Putnam, NY	
Queens, NY	
Richmond, NY	
Rockland, NY	
Westchester, NY	
Newark, NJ	1.1296
Essex, NJ	
Morris, NJ	
Sussex, NJ	
Union, NJ	
Niagara Falls, NY	0.8580
Niagara, NY	
Norfolk-Virginia Beach-Newport News, VA	0.8913
Chesapeake City, VA	
Gloucester, VA	
Hampton City, VA	
James City Co., VA	
Newport News City, VA	
Norfolk City, VA	
Poquoson, VA	
Portsmouth City, VA	
Suffolk City, VA	
Virginia Beach City, VA	
Williamsburg City, VA	
York, VA	
Oakland, CA	1.4494
Alameda, CA	
Contra Costa, CA	
Ocala, FL	0.8660
Marion, FL	
Odessa, TX	1.0424
Ector, TX	
Oklahoma City, OK	0.9745
Canadian, OK	
Cleveland, OK	
Logan, OK	
McClain, OK	
Oklahoma, OK	
Pottawatomie, OK	
Olympia, WA	1.0937
Thurston, WA	
Omaha, NE-IA	0.9501
Pottawattamie, IA	
Douglas, NE	
Sarpy, NE	
Washington, NE	
Orange, County, NY	0.9540
Orange, NY	
Orlando, FL	0.9815
Orange, FL	
Osceola, FL	
Seminole, FL	
Owensboro, KY	0.8162
Daviess, KY	
Oxnard-Ventura, CA	1.2497
Ventura, CA	
Panama City, FL	0.8545
Bay, FL	
Parkersburg-Marietta, WV-OH	0.8738
Washington, OH	
Wood, WV	
Pascagoula, MS	0.9068
Jackson, MS	
Pensacola, FL	0.8668
Escambia, FL	
Santa Rosa, FL	
Peoria, IL	0.9339
Peoria, IL	
Tazewell, IL	
Woodford, IL	
Philadelphia, PA-NJ	1.1236
Burlington, NJ	
Camden, NJ	
Gloucester, NJ	
Bucks, PA	
Chester, PA	
Delaware, PA	
Montgomery, PA	
Philadelphia, PA	
Phoenix, AZ	1.0559
Maricopa, AZ	
Pine Bluff, AR	0.7922
Jefferson, AR	
Pittsburgh, PA	1.0428
Allegheny, PA	
Fayette, PA	
Washington, PA	
Westmoreland, PA	
Pittsfield, MA	1.0610
Berkshire, MA	
Ponce, PR	0.5382
Juana Diaz, PR	
Ponce, PR	
Portland, ME	0.9493
Cumberland, ME	
Sagadahoc, ME	
York, ME	
Portland, OR	1.1747
Clackamas, OR	
Multnomah, OR	
Washington, OR	
Yamhill, OR	
Portsmouth-Dover-Rochester, NH	0.9850
Rockingham, NH	
Strafford, NH	
Poughkeepsie, NY	1.0321
Dutchess, NY	
Providence-Pawtucket-Woonsocket, RI	1.0585
Bristol, RI	
Kent, RI	
Newport, RI	
Providence, RI	
Washington, RI	
Provo-Orem, UT	1.0112
Utah, UT	
Pueblo, CO	0.9557
Pueblo, CO	
Racine, WI	0.9239
Racine, WI	
Raleigh-Durham, NC	0.9556
Durham, NC	
Franklin, NC	
Orange, NC	
Wake, NC	
Rapid City, SD	0.8813
Pennington, SD	
Reading, PA	0.9297
Berks, PA	
Redding, CA	1.1171
Shasta, CA	
Reno, NV	1.1698
Washoe, NV	
Richland-Kennewick, WA	0.9692
Benton, WA	
Franklin, WA	
Richmond-Petersburg, VA	0.9472
Charles City, VA	
Chesterfield, VA	
Colonial Heights City, VA	
Dinwiddie, VA	
Goochland, VA	
Hanover, VA	
Henrico, VA	
Hopewell City, VA	
New Kent, VA	
Petersburg City, VA	
Powhatan, VA	
Prince George, VA	
Richmond City, VA	
Riverside-San Bernardino, CA	1.1619
Riverside, CA	
San Bernardino, CA	
Roanoke, VA	0.8527
Botetourt, VA	
Roanoke, VA	
Roanoke City, VA	
Salem City, VA	
Rochester, MN	1.0787
Olmsted, MN	
Rochester, NY	0.9888
Livingston, NY	
Monroe, NY	
Ontario, NY	
Orleans, NY	
Wayne, NY	
Rockford, IL	0.9979
Boone, IL	
Winnebago, IL	
Sacramento, CA	1.2485
Eldorado, CA	
Placer, CA	
Sacramento, CA	
Yolo, CA	
Saginaw-Bay City-Midland, MI	1.0664
Bay, MI	
Midland, MI	
Saginaw, MI	
St. Cloud, MN	0.9625
Benton, MN	
Sherburne, MN	
Stearns, MN	
St. Joseph, MO	0.9444
Buchanan, MO	
St. Louis, MO-IL	0.9874
Clinton, IL	
Jersey, IL	
Madison, IL	
Monroe, IL	
St. Clair, IL	
Franklin, MO	
Jefferson, MO	
St. Charles, MO	
St. Louis, MO	
St. Louis City, MO	
Sullivan City, MO	
Salem, OR	1.0627
Marion, OR	
Polk, OR	
Salinas-Seaside-Monterey, CA	1.2892
Monterey, CA	
Salt Lake City-Ogden, UT	1.0079
Davis, UT	
Salt Lake, UT	
Weber, UT	
San Angelo, TX	0.8338
Tom Green, TX	
San Antonio, TX	0.8614
Bexar, TX	
Comal, TX	
Guadalupe, TX	
San Diego, CA	1.2325
San Diego, CA	

San Francisco, CA	1.5207
Marin, CA	
San Francisco, CA	
San Mateo, CA	
San Jose, CA	1.4709
Santa Clara, CA	
San Juan, PR	0.5393
Barcelona, PR	
Bayoman, PR	
Canovanas, PR	
Carolina, PR	
Catano, PR	
Corozal, PR	
Dorado, PR	
Fajardo, PR	
Florida, PR	
Guaynabo, PR	
Humacao, PR	
Juncos, PR	
Los Piedras, PR	
Loiza, PR	
Luguillo, PR	
Manati, PR	
Naranjito, PR	
Rio Grande, PR	
San Juan, PR	
Toa Alta, PR	
Toa Baja, PR	
Trojillo Alto, PR	
Vega Alta, PR	
Vega Baja, PR	
Santa Barbara-Santa Maria-Lompoc, CA	1.1793
Santa Barbara, CA	
Santa Cruz, CA	1.2675
Santa Cruz, CA	
Santa Fe, NM	0.9368
Los Alamos, NM	
Santa Fe, NM	
Santa Rosa-Petaluma, CA	1.3016
Sonoma, CA	
Sarasota, FL	0.9740
Sarasota, FL	
Savannah, GA	0.8529
Chatham, GA	
Effingham, GA	
Scranton, Wilkes Barre, PA	0.9301
Columbia, PA	
Lackawanna, PA	
Luzerne, PA	
Monroe, PA	
Wyoming, PA	
Seattle, WA	1.1114
King, WA	
Snohomish, WA	
Sharon, PA	0.9298
Mercer, PA	
Sheboygan, WI	0.9215
Sheboygan, WI	
Sherman-Denison, TX	0.8938
Grayson, TX	
Shreveport, LA	0.9410
Bossier, LA	
Caddo, LA	
Sioux City, IA-NE	0.9028
Woodbury, IA	
Dakota, NE	
Sioux Falls, SD	0.9298
Minnehaha, SD	
South Bend-Mishawaka, IN	1.0080
St. Joseph, IN	
Spokane, WA	1.0987
Spokane, WA	
Springfield, IL	0.9757
Menard, IL	
Sangamon, IL	
Springfield, MO	0.8680
Christian, MO	
Greene, MO	
Springfield, MA	1.0237
Hampden, MA	
Hampshire, MA	
State College, PA	1.0197
Centre, PA	
Steubenville-Weirton, OH-WV	0.9032
Jefferson, OH	
Brooke, WV	
Hancock, WV	
Stockton, CA	1.2039
San Joaquin, CA	
Syracuse, NY	0.9814
Madison, NY	
Onondaga, NY	
Oswego, NY	
Tacoma, WA	1.0569
Pierce, WA	
Tallahassee, FL	0.9322
Gadsden, FL	
Leon, FL	
Tampa-St. Petersburg-Clearwater, FL	0.9407
Hernando, FL	
Hillsborough, FL	
Pasco, FL	
Pinellas, FL	
Terre Haute, IN	0.8663
Clay, IN	
Vigo, IN	
Texarkana, TX-AR	0.8149
Miller, AR	
Bowie, TX	
Toledo, OH	1.0820
Fulton, OH	
Lucas, OH	
Wood, OH	
Topeka, KS	0.9751
0.9751	
Shawnee, KS	
Trenton, NJ	1.0137
Mercer, NJ	
Tucson, AZ	0.9763
Pima, AZ	
Tulsa, OK	0.9070
Creeks, OK	
Osage, OK	
Rogers, OK	
Tulsa, OK	
Wagoner, OK	
Tuscaloosa, AL	0.9077
Tuscaloosa, AL	
Tyler, TX	0.9910
Smith, TX	
Utica-Rome, NY	0.8501
Herkimer, NY	
Oneida, NY	
Vallejo-Fairfield-Napa, CA	1.3276
Napa, CA	
Solano, CA	
Vancouver, WA	1.1092
Clark, WA	
Victoria, TX	0.8736
Victoria, TX	
Vineland-Millville-Bridgeton, NJ	0.9822
Cumberland, NJ	
Visalia-Tulare-Porterville, CA	1.0482
Tulare, CA	
Waco, TX	0.8254
McLennan, TX	
Washington, DC-MD-VA	1.1289
District of Columbia	
Calvert, MD	
Charles, MD	
Frederick, MD	
Montgomery, MD	
Prince Georges, MD	
Alexandria City, VA	
Arlington, VA	
Fairfax, VA	
Fairfax City, VA	
Falls Church City, VA	
Loudoun, VA	
Manassas City, VA	
Manassas Park City, VA	
Prince William, VA	
Stafford, VA	
Waterloo-Cedar Falls, IA	0.9098
Black Hawk, IA	
Bremer, IA	
Wausau, WI	0.9795
Marathon, WI	
West Palm Beach-Boca Raton-Delray Beach, FL	1.0087
Palm Beach, FL	
Wheeling, WV-OH	0.8640
Belmont, OH	
Marshall, WV	
Ohio, WV	
Wichita, KS	1.0408
Butler, KS	
Harvey, KS	
Sedgwick, KS	
Wichita Falls, TX	0.8378
Wichita, TX	
Williamsport, PA	0.8980
Lycoming, PA	
Wilmington, DE-NJ-MD	1.0782
New Castle, DE	
Cecil, MD	
Salem, NJ	
Wilmington, NC	0.9010
New Hanover, NC	
Worcester-Fitchburg-Leominster, MA	1.0581
Worcester, MA	
Yakima, WA	1.0210
Yakima, WA	
York, PA	0.9304
Adams, PA	
York, PA	
Youngstown-Warren, OH	1.0077
Mahoning, OH	
Trumbull, OH	
Yuba City, CA	1.0271
Sutter, CA	
Yuba, CA	
Yuma, AZ	0.9176
Yuma, AZ	

TABLE IIIB.—WAGE INDEX FOR RURAL AREAS

Non-urban areas	Wage index
Alabama	0.7222
Alaska	1.3955
Arizona	0.8807
Arkansas	0.7216
California	1.0562
Colorado	0.8719
Connecticut	1.1431
Delaware	0.8602
Florida	0.8764
Georgia	0.7773
Hawaii	0.9804
Idaho	0.9019
Illinois	0.8110
Indiana	0.8100
Iowa	0.7929
Kansas	0.7796
Kentucky	0.7879
Louisiana	0.7796
Maine	0.8442
Maryland	0.8304
Massachusetts	1.1292
Michigan	0.9076
Minnesota	0.8473
Mississippi	0.7210
Missouri	0.7587
Montana	0.8559

TABLE IIIB.—WAGE INDEX FOR RURAL AREAS—Continued

Non-urban areas	Wage index
Nebraska	0.7437
Nevada	1.0074
New Hampshire	0.9454
New Jersey	[1]
New Mexico	0.8621
New York	0.8523
North Carolina	0.7968
North Dakota	0.8171
Ohio	0.8674
Oklahoma	0.7759
Oregon	1.0004
Pennsylvania	0.8890
Puerto Rico	[2] 0.4803
Rhode Island	[1]
South Carolina	0.7714
South Dakota	0.7538
Tennessee	0.7476
Texas	0.7742
Utah	0.9162
Vermont	0.8992
Virginia	0.7946
Virgin Islands	[2] 1.000
Washington	0.9854
West Virginia	0.8602
Wisconsin	0.8634
Wyoming	0.8892

[1] All counties within State and classified urban.
[2] Approximate value for area.

TABLE IV.—COST REPORTING YEAR ADJUSTMENT FACTOR[1]

If the HHA cost reporting period begins	The adjustment factor is
August 1, 1992	1.0046
September 1, 1992	1.0093
October 1, 1992	1.0138
November 1, 1992	1.0185
December 1, 1992	1.0231
January 1, 1993	1.0278
February 1, 1993	1.0321
March 1, 1993	1.0359
April 1, 1993	1.0402
May 1, 1993	1.0444
June 1, 1993	1.0488

[1] Based on compounded projected market basket inflation rates of 5.60 percent for 1993 and 5.00 percent for 1994.

These adjustment factors are subject to change based on later estimates of cost increases.

If, for any reason we do not publish a new schedule of limits to be effective on July 1, 1993, or do not announce other changes in the current schedule by that date, the current limits will continue in effect with the last adjustment factor above multiplied by 1.004 once for each month between June 1, 1993 and the month in which the cost reporting period begins, until a new schedule of limits or other provision is issued. For example, if a cost reporting period begins on August 1, 1993, 1.0488 will be multiplied by 1.004 twice and the resulting factor will equal 1.0572 ($1.0488 \times 1.004 = 1.0572$).

X. Regulatory Impact Statement and Flexibility Analysis

A. Executive Order 12291

Executive Order (E.O.) 12291 requires us to prepare and publish a regulatory impact analysis for any final notice that meets one of the E.O. 12291 criteria for a "major rule"; that is, that will be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Based on the data available to us, we estimate the new HHA cost limits implemented in this notice with public comment period will have a negligible impact on Medicare expenditures for HHA services in FY 1992 and an impact of $10 million in FY 1993. (The increase in FY 1992 expenditures is negligible because this notice is effective only during the last quarter of FY 1992, a period in which relatively few HHA cost reporting periods begin.) The FY 1993 increase is attributable to a change in the blend of 1982 and 1988 hospital wage data used to develop the HHA cost limits. For cost reporting periods beginning on or after July 1, 1991 and before July 1, 1992, the limits are based on a wage index that is a blend of 67 percent of 1982 wage data and 33 percent 1988 wage data. The limits for cost reporting periods beginning on or after July 1, 1992 and before July 1, 1993 are based on a wage index composed of a blend of 33 percent 1982 wage data and 67 percent 1988 wage data.

Since the projected Medicare program costs do not meet the $100 million threshold criterion of E.O. 12291, or the other criteria of E.O. 12291, a final regulatory impact analysis is not required.

B. Regulatory Flexibility Analysis

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a notice will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all HHAs are treated as small entities.

We are providing a voluntary regulatory flexibility analysis for this notice because of the large number of HHAs that will be affected, even though the economic impact will not be significant. Normally, a regulatory flexibility analysis requires the agency to discuss various alternatives to the provisions in a notice such as this. Here, however, HCFA is merely implementing the provisions of section 1861(v)(1)(L)(iii) of the Act and section 4207(d)(3)(B) of Pub. L. 101–508. Accordingly, no alternatives to the provisions in this notice with comment are available.

As of February 6, 1992 there are 6,009 HHAs. Of that number, approximately 27 percent (1,631) are hospital-based; 18 percent (1082) are State or local government agencies; 9 percent (533) are visiting nurse associations; less than 2 percent (86) are SNF-based; less than 1 percent (52) are combination government and voluntary agencies; less than 1 percent (3) are rehabilitation center-based; and 44 percent (2,622) are classified as other than the classifications provided above.

We do not have sufficient data to predict exactly which HHAs will be most affected by this notice nor the magnitude of the impact upon individual HHAs. However, it is clear that individual HHAs will be affected to a greater or lesser degree depending upon the extent to which their total payment is derived from Medicare. We believe that approximately 26 percent of the HHAs will be affected negatively by the new cost limits (that is, their costs will exceed the cost limits).

C. Impact on Small Rural Hospitals

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a final notice may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the Regulatory Flexibility Act (the RFA) (5 U.S.C. 601 through 612). For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 100 beds located outside an MSA.

We are not preparing a rural impact statement since we have determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on the operations of a substantial number of small rural hospitals.

XI. Other Required Information

A. Waiver of Proposed Notice

In adopting notices, such as this, we ordinarily publish a proposed notice in the **Federal Register** with a 60-day

period for public comment as required under section 1871(b)(1) of the Act.

As we discussed in section IV above, we have used the same methodology to develop the schedule of limits that was used in setting the limits published on December 9, 1991. However, as required by section 4207(d)(3) of Pub. L. 101–508, we are using a wage index based on a specified blend of hospital wage data from 1982 and 1988. The cost limits have been updated to reflect the cost increases occurring between the cost reporting periods for the data contained in the data base and December 31, 1992.

Because the methodology used to develop this schedule of limits was previously published for public comment and because the applicable wage index is mandated by section 4207(d)(3) of Pub. L. 101–508 for cost reporting periods beginning July 1, 1992, we believe that it would be impracticable and unnecessary to request public comment before implementation of these cost limits. To do so would be contrary to the public interest. Therefore, we find good cause to waive publication of a proposed notice.

B. Waiver of 30-Day Delay in Effective Date

We normally provide a delay of 30 days in the effective date for documents such as this. However, if adherence to this procedure would be impractical, unnecessary, or contrary to the public interest, we may waive the delay in the effective date.

Section 1861(v)(1)(L)(iii) of the Act requires that the Secretary establish revised HHA cost limits for cost reporting periods beginning on or after July 1, 1991 and annually thereafter. Also, the clear direction of section 4207(d)(3)(B) of Pub. L. 101–508 requires that effective for cost reporting periods beginning on or after July 1, 1992, we use a wage index based on a specified blend of hospital wage data from 1982 and 1988 to determine the HHA cost limits. If HHAs are to receive timely the benefits of the cost limits that are based on the updated wage index, it is necessary that these limits be effective for cost reporting periods beginning on or after July 1, 1992. Thus, we believe that a delay in the effective date of these cost limits would be contrary to the public interest. Therefore, we find good cause to waive the usual 30-day delay in the effective date of this notice with comment period.

C. Paperwork Reduction Act

This final notice does not impose information collection requirements. Consequently, it does not need to be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

D. Public Comments

Because of the large number of items of correspondence we normally receive on a notice with comment period, we are not able to acknowledge or respond to them individually. However, we will consider all comments concerning the provisions of this notice that we receive by the date and time specified in the "**DATES**" section of this notice, and, if changes are made in another notice, we will respond to these comments in that notice.

Authority: Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)); section 4207(d) of Pub. L. 101–508 (42 U.S.C. 1395x (note)); and 42 CFR 413.30.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: May 20, 1992.

William Toby,

Acting Administrator, Health Care Financing Administration.

Approved: June 11, 1992.

Louis W. Sullivan,

Secretary.

[FR Doc. 92–15496 Filed 6–30–92; 8:45 am]

BILLING CODE 4120–01–M

federal register

Wednesday
July 1, 1992

Part VI

Department of the Treasury

Office of Foreign Assets Control

31 CFR Part 550
Libyan Sanctions Regulations; Final Rule

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 550

Libyan Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule; amendments to the list of specially designated nationals of Libya.

SUMMARY: The Libyan Sanctions Regulations are being amended to update name and address information for companies previously listed at appendix A, Organizations Determined To Be Within the Term "Government of Libya" (Specially Designated Nationals of Libya), and to add name and address clarifications to the list of individuals at appendix B, Individuals Determined To Be Specially Designated Nationals of the Government of Libya. Appendix A contains the names of companies, banks, and other entities, whether located outside or inside of Libya, which the Director of the Office of Foreign Assets Control ("FAC") has determined to be owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the Government of Libya. Appendix B contains the names of individuals whom the Director of FAC has determined to be acting or purporting to act directly or indirectly on behalf of the Government of Libya. This list may be expanded or amended at any time.

EFFECTIVE DATE: July 1, 1992.

ADDRESSES: Copies of this list are available upon request at the following location: Office of Foreign Assets Control, U.S. Department of the Treasury, Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: J. Robert McBrien, Chief, International Programs Division, Office of Foreign Assets Control, tel. (202) 622–2420.

SUPPLEMENTARY INFORMATION: The Libyan Sanctions Regulations, 31 CFR part 550 (the "Regulations"), were issued by the Treasury Department to implement Executive Orders No. 12543 (51 FR 875, Jan. 9, 1986) and 12544 (51 FR 1235, Jan. 10, 1986), in which the President declared a national emergency with respect to Libya, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), and ordering specific measures against the Government of Libya. The Regulations were amended by a final rule published in the **Federal Register** (56 FR 20540, May 6, 1991) which added appendix A, a list of organizations determined to be within the term "Government of Libya." The Regulations were amended again by a final rule published in the **Federal Register** (56 FR 37156, Aug. 5, 1991) which removed the numerical designations from appendix A, merged the separate categories in appendix A, added the names of twelve companies to appendix A, and added a new appendix B, "Individuals Determined To Be Specially Designated Nationals of the Government of Libya," to the end thereof. The Regulations also were amended by a final rule published in the **Federal Register** (56 FR 65993, Dec. 20, 1991) which removed one name from appendix B. The Regulations were amended further by a final rule published in the **Federal Register** (57 FR 10798, Mar. 30, 1992) which provided public notice of the worldwide application of the Regulations to each name listed at appendix A, provided further public notice that the absence of any particular name from the list is not to be construed as evidence that the person does not meet the definition of the "Government of Libya," and provided public notice of 46 additional companies determined to be "specially designated nationals" of the Government of Libya.

Section 550.304 of the Regulations defines the term "Government of Libya" as follows:

(a) The "Government of Libya" includes:

(1) The state and the Government of Libya, as well as any political subdivision, agency, or instrumentality thereof, including the Central Bank of Libya;

(2) Any partnership, association, corporation, or other organization substantially owned or controlled by the foregoing;

(3) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date, acting or purporting to act directly or indirectly on behalf of any of the foregoing;

(4) Any other person or organization determined by the Secretary of the Treasury to be included within paragraph (a) of this section.

(b) A person specified in paragraph (a)(2) of this section shall not be deemed to fall within the definition of Government of Libya solely by reason of being located in, organized under the laws of, or having its principal place of business in, Libya.

Determinations that persons fall within the definition of the "Government of Libya" are effective upon the date of determination by the Director of FAC, acting under authority delegated by the Secretary of the Treasury. Public notice is effective upon the date of publication or upon actual notice, whichever is sooner.

This rule amends appendix A to part 550 to provide public notice of additional address information and further clarifications of previous listings of companies determined to be "specially designated nationals" of the Government of Libya. Appendix A consists of organizations determined by the Director of FAC to be owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the Government of Libya. The persons listed in appendix A thus fall within the definition of the "Government of Libya" contained in § 550.304(a) of the Regulations, and are subject to all prohibitions applicable to other components of the Government of Libya. All unlicensed transactions with such persons, or in property in which they have an interest, are prohibited.

This rule also amends appendix B to part 550 to provide public notice of additional address information and further clarifications of previous listings of individuals determined to be "specially designated nationals" of the Government of Libya. Appendix B consists of individuals determined by the Director of FAC to be acting or purporting to act directly or indirectly on behalf of the Government of Libya. The persons listed in appendix B thus fall within the definition of the "Government of Libya" contained in § 550.304(a) of the Regulations, and are subject to all prohibitions applicable to other components of the Government of Libya. All unlicensed transactions with such persons, or in property in which they have an interest, are prohibited.

The list of specially designated nationals is a partial one, since FAC may not be aware of all the agencies and officers of the Government of Libya or of all the persons that might be owned or controlled by the Government of Libya or acting as agents or front organizations for Libya, and which thus qualify as specially designated nationals of the Government of Libya. Therefore, persons engaging in transactions may not rely on the fact that any particular person is not on the specially designated nationals list as evidence that it is not owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the Government of Libya. The Treasury Department regards it as incumbent upon all U.S. persons to take reasonable steps to ascertain for themselves whether persons they enter into transactions with are owned or

controlled by the Government of Libya or are acting or purporting to act on its behalf, or on behalf of other countries subject to blocking or transactional restrictions (at present, Cuba, Haiti, Iraq, North Korea, Vietnam, and Yugoslavia).

Section 206 of the International Emergency Economic Powers Act, 50 U.S.C. 1705, provides for civil penalties not to exceed $10,000 per count for violations of the Regulations. Criminal penalties may include fines of up to $250,000 and imprisonment for up to 10 years per count for willful violations of the Regulations by individuals, and fines of up to $500,000 per count for organizations.

Because the Regulations involve a foreign affairs function, Executive Order 12291 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

List of Subjects in 31 CFR Part 550

Administrative practice and procedure, Banks, Banking, Blocking of assets, Foreign trade, Libya, Penalties, Reporting and recordkeeping requirements, Securities, Specially designated nationals, Travel restrictions.

PART 550—LIBYAN SANCTIONS REGULATIONS

For the reasons set forth in the preamble, 31 CFR part 550 is amended as set forth below:

1. The authority citation for part 550 continues to read as follows:

Authority: 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 2349aa–8 & –9; 49 U.S.C. 1514; E.O. 12543, 51 FR 875 (Jan. 9, 1986); E.O. 12544, 51 FR 1235 (Jan. 10, 1986).

2. Appendix A to part 550 is revised to read as follows:

Appendix A—Organizations Determined To Be Within the Term "Government of Libya" (Specially Designated Nationals of Libya)

The names and addresses listed below are the most complete ones currently known to the Office of Foreign Assets Control. Unless otherwise indicated, listed organizations located in Libya meet the definition of "Government of Libya" not only at their locations inside of Libya, but also at all their other locations worldwide. Listed organizations outside of Libya also meet the definition of "Government of Libya" not only at their cited addresses, but also at all their other locations worldwide. The absence of any particular person from the list of specially designated nationals is not to be construed as evidence that it is not owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the Government of Libya. Please note that name variations and addresses are subject to change over time and that the Office of Foreign Assets Control will update name and address information periodically.

A. Bortolotti & Company S.P.A.,
(a.k.a. Bortolotti),
Via Predore, 59, 24067 Sarnico, Bergamo, Italy, Cremona, Italy.

AD–DAR AL Jamahiriya for Publishing Distribution & Advertising,
P.O. Box 17459, Misurata, Libya,
P.O. Box 959, Tripoli, Libya,
P.O. Box 321, Benghazi, Libya,
P.O. Box 20108, Sebha, Libya,
P.O. Box 547, Valletta, Malta,
P.O. Box 15977, Casablanca, Morocco.

Agip North Africa and Middle East Oil Company,
(a.k.a. Agip (N.A.M.E.) Limited),
Adahr, P.O. Box 346, Sciara Giakarta, Tripoli, Libya,
Benghazi Office, P.O. Box 4120, Benghazi, Libya,
(Designation applies only to joint venture located in Libya).

Al Hambra Holding Company,
Madrid, Spain.

Aquitaine Libye,
Omar El Mokhtar Street, P.O. Box 282, Tripoli, Libya,
(Designation applies only to joint venture located in Libya).

Arab Real Estate Company,
(a.k.a. Aresco),
Beirut, Lebanon.

Arabian Gulf Oil Company,
(a.k.a. Agoco),
P.O. Box 263, Al Kish, Benghazi, Libya,
P.O. Box 693–325, Ben Ashour Street, Tripoli, Libya,
Sarir Field, Libya,
Windsor House, 42–50 Victoria Street, London SW1H 0NW, United Kingdom.

Asteris S.A. Industrial & Commercial Corporation,
Athens, Greece.

Azzawiya Oil Refining Company, Inc.,
P.O. Box 1575, Tripoli, Libya,
P.O. Box 6451, Tripoli, Libya,
Benghazi Asphalt Plant Office, Benghazi, Libya.

Banque Arabe Libyenne Burkinabe Pour Le Commerce Exterieur Et Le Developpement,
1336 Avenue Nelson Mandela, Ouagadougou, Burkina Faso.

Banque Arabe Libyenne Malienne Pour Le Commerce Exterieur Et Le Developpement,
(a.k.a. Balima),
P.O. Box 2372, Bamako, Mali.

Banque Arabe Libyenne Mauritanienne Pour Le Commerce Exterieur Et Le Developpement,
(a.k.a. Balm),
Jamal Abdulnasser Street, P.O. Box 262, Nouakchott, Mauritania.

Banque Arabe Libyenne Nigerienne Pour Le Commerce Exterieur Et Le Developpement,
P.O. Box 11363, Niamey, Niger.

Banque Arabe Libyenne Togolaise Du Commerce Exterieur,
(a.k.a. Baltex),
P.O. Box 4874, Lome, Togo.

Banque Arabe Tuniso-Libyenne De Developpement Et De Commerce Exterieur,
(a.k.a. B.T.L),
25 Avenue Kheireddine Pacha, P.O. Box 102, 1002 Le Belvedere, Tunis, Tunisia.

Banque Intercontinentale Arabe,
67, Avenue Franklin Roosevelt, 75008 Paris, France.

Banque Tchado Arabe Libyenne,
P.O. Box 104, N'Djamena, Chad.

Central Bank of Libya,
Al-Fatah Street, P.O. Box 1103, Tripoli, Libya,
Benghazi, Libya,
Sebha, Libya.

Chempetrol,
(a.k.a. Chempetrol International),
145, Flat 9, Tower Road, Sliema, Malta.

Chempetrol International Ltd.,
5th Floor, Quality Court, Chancery Lane, London WC2A 1HP, United Kingdom,
28 Lincoln's Inn Fields, London WC2A 3HH, United Kingdom.

Compagnie Algero-Libyenne De Transport Maritime,
(a.k.a. Caltram),
21 Rue des Freres Bouadou, Birmandreis, Algiers, Algeria.

Corinthia Group of Companies,
Head Office, 22, Europa Centre, Floriana, Malta.

Corinthia Palace Hotel Company Limited,
De Paula Avenue, Attard, Malta.

F.A. Petroli S.P.A.,
Italy.

General Arab African Company,
(a.k.a. GAAC),
(a.k.a. GAAE),
(a.k.a. General Arab African Enterprise),
P.O. Box 8059, 219 Mohammed El Megarief Street, Tripoli, Libya,
Nasser Street, Benghazi, Libya.

General Establishment for Publication Distribution & Advertising,
P.O. Box 113, Beirut, Lebanon.

Holborn Europa Raffinerie GMBH,
(a.k.a. HER),
Rothenbaumchaussee 5, 4th Floor, D–2000 Hamburg 13, Germany,
Moorburger Strasse 16, D–2100 Hamburg 90, Germany.

Holborn European Marketing Company Limited,
(a.k.a. HEMCL),
Miranda Court No. 1, Ipirou Street, P.O. Box 897, Larnaca, Cyprus,
Hofplein 33, 3011 AJ Rotterdam, Netherlands.

Holborn Investment Company Limited,
(a.k.a. HICL),
Miranda Court No. 1, Ipirou Street, P.O. Box 897, Larnaca, Cyprus.

International Holding Company,
Luxembourg Ville, Luxembourg.

Jamahiriya Bank,
(f.k.a. Masraf Al-Gumhouria),

P.O. Box 3224, Martyr Street, Megarief, Tripoli, Libya,
Emhemed Megarief Street, Tripoli, Libya,
P.O. Box 1291, Benghazi, Libya,
(38 local branches in Libya).
Jerma Palace Hotel,
Maarsancala, Malta.
Joint Oil
(a.k.a. Joint Exploration, Exploitation and Petroleum Services Company),
(a.k.a. Joint Oil Tunisia),
(a.k.a. Libyan-Tunisian Exploration Company),
(a.k.a. Societe De Recherche Et D'Exploitation Commune Et De Service Petroliere),
B.P. 350 Houmt Souk 4180, Djerba Island, Tunisia,
7th of November offshore field, Gulf of Gabes,
Planning & Logistic Group complex, Port of Zarzis, Tunisia.
Joint Turkish Libyan Agricultural Livestock Company,
Ankara, Turkey.
Kaelble-Gmeinder GMBH,
(a.k.a. Kaelble & Gmeinder Company),
Maubacher Strasse 100, Postfach 13 20, W-7150 Backnang, Germany.
Lafi Trade Malta,
14517 Tower Road, Sliema, Malta.
Liberian Libyan Holding Company,
Monrovia, Liberia.
Libyan Agricultural Bank,
(a.k.a. The Agricultural Bank),
(a.k.a. National Agricultural Bank of Libya),
52, Omar El Mokhtar Street, P.O. Box 1100, Tripoli, Libya,
(1 city branch and 27 branches in Libya).
Libyan Arab Airlines,
(a.k.a. LAA),
Shahrah Haiti, P.O. Box 2555, Tripoli, Libya,
P.O. Box 360, Benghazi, Libya,
(Numerous branch offices and facilities abroad).
Libyan Arab Foreign Bank
(a.k.a. LAFB),
Dat El Imad Complex Tower No. 2, P.O. Box 2542, Tripoli, Libya.
Libyan Arab Foreign Investment Company,
(a.k.a. Lafico),
P.O. Box 4538, Maidan Masif El Baladi, Tripoli, Libya,
Athens, Greece,
Rome, Italy,
Malta.
Libyan Arab Maltese Holding Company Limited,
(a.k.a. Lamhco),
St. Mark House, Cappuchan Street, Floriana, Malta.
Libyan Arab Uganda Bank for Foreign Trade and Development,
P.O. Box 9485, Kampala, Uganda.
Libyan Arab Uganda Holding Company Limited,
(a.k.a. Uganda Libyan Holding Company Limited),
Kampala, Uganda.
Libyan-Greek Investment Company,
Athens, Greece.
Medisan Limited,
Rl 6A, Industrial Estate, Ricasoli, Malta.
Mediterranean Aviation Company, Limited,
(a.k.a. Medavia),
Malta.
Mediterranean Power Electric Company Limited,
A 18B, Industrial Estate, Marsa, Malta
Mediterranean Oil Services GMBH,
(a.k.a. Mediterranean Sea Oil Services GMBH),
(a.k.a. Medoil),
P.O. Box 5601, Immermannstrasse 40, D-4000 Dusseldorf 1,
Germany.
Menil Enstalt Company,
Vaduz, Liechtenstein.
Metrovia,
Switzerland.
National Commercial Bank S.A.L.,
P.O. Box 4647, Shuhada Square, Tripoli, Libya,
P.O. Box 166, Benghazi, Libya,
(22 branches in Libya).
National Company Drilling Chemical & Equipment,
(a.k.a. JOWFE),
NOC Building, Ashjara Square, Benghazi, Libya.
National Company for Field and Terminals Catering,
Airport Road, Km. 3, P.O. Box 491, Tripoli, Libya.
National Company for Oilfield Equipment,
P.O. Box 8707, Tripoli, Libya.
National Drilling Workover Company,
(a.k.a. National Drilling Company)
(a.k.a. National Drilling Company (Libya)),
208 Omar El Mokhtar Street, P.O. Box 1454, Tripoli, Libya.
National Oil Corporation,
(a.k.a. Libyan National Oil Corporation),
(a.k.a. LNOC),
(a.k.a. NOC),
Bashir Saadawi Street, P.O. Box 2655, Tripoli, Libya,
P.O. Box 2978, Benghazi, Libya,
Dahra Gas Projects Office, Dahra Street, P.O. Box 12221, Dahra, Tripoli, Libya,
Petroleum Training and Qualifying Institute, Zawia Road, Km. 9, P.O. Box 6184, Tripoli, Libya,
Petroleum Research Centre, Al Nasser Street, P.O. Box 6431, Tripoli, Libya,
(Subsidiaries and joint ventures in Libya and worldwide).
National Petrochemicals Company,
(a.k.a. Napetco),
(f.k.a. National Methanol Company),
P.O. Box 20812, Marsa Brega, Libya,
P.O. Box 5324, Garden City, Benghazi, Libya,
Dusseldorf, Germany (Office Closed).
Neutron International,
Tripoli, Libya.
Norddeutsche Oelleitungsgesellschaft MBH,
(a.k.a. NDO)
(a.k.a. North German Oil Pipeline),
Moorburger Strasse 16, D-2000 Hamburg-Harburg 90, Germany,
Wilhelmshaven to Hamburg pipeline,
Germany.
North Africa Commercial Bank S.A.L.,
(f.k.a. Arab Libyan Tunisian Bank S.A.L.),
P.O. Box 9575/11, 1st Floor, Piccadily Centre, Hamra Street, Beirut, Lebanon.
Oil Energy France,
France.
Oil Energy Spain,
(a.k.a. Oilinvest Spain),
(a.k.a. Oilinvest Espanola),
Spain.
Oilinvest,
(a.k.a. Foreign Petroleum Investment Corporation),
(a.k.a. Libyan Oil Investments International Company),
(a.k.a. OIIC),
(a.k.a. Oilinvest International N.V.),
Netherlands Antilles,
Tripoli, Libya.
Oilinvest (Netherlands) B.V.,
(a.k.a. Oilinvest Holland B.V.),
Museumpln 11, 1071 DJ Amsterdam, Netherlands.
OS Oilinvest Services A.G.,
Loewenstrasse 60, Zurich, Switzerland.
Pak-Libyan Holding Company Ltd.,
Karachi, Pakistan.
Quality Shoes Company,
UB33, Industrial Estate, San Gwann, Malta.
Raffinerie Du Sud-Ouest,
(a.k.a. RSO),
(a.k.a. Collombey Refinery),
Collombey, Valais, Switzerland.
Ras Lanuf Oil and Gas Processing Company, Ltd.
(a.k.a. Rasco),
P.O. Box 75071, Tripoli, Libya,
Ras Lanuf Complex and Terminal, Ghout El Shaal, Libya,
Benghazi Complex, P.O. Box 1971, Gamel Abdul Nasser Street, Benghazi, Libya.
Sahara Bank,
10 First September Street, P.O. Box 270, Tripoli, Libya,
(22 branches in Libya).
Sirm Holding S.R.L.,
Rome, Italy.
Sirte Oil Company,
(a.k.a. Sirte Oil Co. for Production, Manufacturing of Oil & Gas, Marsa El Brega),
P.O. Box 385, Tripoli, Libya,
P.O. Box 2582, Tripoli, Libya,
Benghazi, Libya,
Sirte Field, Libya,
Marsa El Brega, Libya.
Societe Agricole Togolaise Arabe Libyenne,
Lome, Togo.
Societe Arabe Libyenne Malienne Pour L'Agriculture Et L'Elevage,
(a.k.a. Solima),
Bamako, Mali.
Societe Arabe Libyenne Mauritanienne Des Ressources Maritimes,
(a.k.a. Salimaurem),
Nouadhibou, Mauritania.
Societe Arabe Libyenne-Centrafricaine D'Import-Export,
Bangui, Central African Republic.
Societe Arabe Libyo-Guineenne Pour Le Developpement Agricole Et Agro-Industriel,
(a.k.a. Salguidia),
Conakry, Guinea.
Societe Arabe Libyo-Nigere Pour Le Developpement Et La Commercialisation Des Produits Agricoles,
Niamey, Niger.
Societe Arabe Libyo-Tunisienne De Transport Maritime,
Tunis, Tunisia.

Societe D'Economie Mixte Centre Africaine Libyenne Des Produits Agricoles,
Bangui, Central African Republic.
Societe Libyenne Centre Africaine Des Mines,
Bangui, Central African Republic.
Societe Mixte Rwando Arabe Libyenne Pour Le Developpement Et La Commercialisation Des Produits Agricoles Et D'Elevage,
Kigali, Rwanda.
Societe Mixte Rwando-Arabe Libyenne De Promotion Hoteliere Et Touristique Au Rwanda,
Kigali, Rwanda.
Societe Togolaise Arabe Libyenne De Peche,
Lome, Togo.
Swan Laundry and Dry Cleaning Company, Ltd.,
55, Racecourse Street, Marsa, Malta.
Syrian Libyan Company Industrial & Agricultural Investments,
(a.k.a. Arab Libyan Syrian Industrial & Agricultural Investment Company),
(a.k.a. Sylico),
9 Mazze, Autostrade, Damascus, Syria.
Tamoil Hungaria, Hungary.
Tamoil Italia S.P.A.,
Piazzetta Bossi 3, I–20121 Milan, Italy,
Cremona Refinery, Italy.
Tamoil Petroli Italiana S.P.A.,
Milan, Italy,
(1,977 gasoline retail outlets in Italy).
Tamoil Suisse S.A.,
(a.k.a. Tamoil Switzerland),
(f.k.a. Gatoil Suisse S.A.),
Zug, Switzerland; Geneva, Switzerland,
(330 gasoline retail outlets in Switzerland),
(RSO refinery in Collombey).
Tamoil Trading Ltd.,
Monte Carlo, Monaco,
Zurich, Switzerland,
One, St. Paul's Churchyard, London EC4M 8SH, United Kingdom.
Teknica Petroleum Services Limited
Suite 1100, 736 Sixth Avenue S.W., Calgary, Alberta T2P 3T7, Canada.
Tekxel Limited,
(a.k.a. Jawaby Technical Services Limited),
London, United Kingdom.
Turkish-Libyan Joint Maritime Transport Stock Company,
(a.k.a. Turlib),
Kemeralti Caddesi 99, 80020 Karakoy, Istanbul, Turkey.
UMM Al-Jawaby Oil Service Company, Ltd.,
33 Cavendish Square, London W1M 9HF, United Kingdom.
UMM Al-Jawaby Petroleum Co. S.A.L.,
P.O. Box 693, Tripoli, Libya,
Nafoora Field, Libya.
UMMA Bank S.A.L.,
1 Giaddet Omar Mokhtar, P.O. Box 685, Tripoli, Libya,
(31 branches throughout Libya).
Veba Oil Operations B.V.,
(a.k.a. Veba Oil Libya Gmbh),
(a.k.a. Veba Oil Libyan Branch),
(f.k.a. Mobil Oil Libya, Ltd.),
P.O. Box 2357, Tripoli, Libya,
Al Magharba Street, P.O. Box 690, Tripoli, Libya,
The Hague, Netherlands,
(Designation applies only to joint venture located in Libya and office located in the Netherlands).
Vulcan Oil S.P.A.,
Milano 2, Centro Direz. Pal. Canova, 20090 Segrate, Milan, Italy,
Delta Energy/ERG bunkering service,
Genoa, Italy,
United Kingdom (offshore).
WAHA Oil Company,
Inas Building, Omar El Mokhtar Street, Box 395, Tripoli, Libya,
P.O. Box 221, Benghazi, Libya,
Sidi Issa Street, P.O. Box 915, Tripoli, Libya,
P.O. Box 1075, Tripoli, Libya.
WAHDA Bank,
Jamal Abdulnasser Street, P.O. Box 452,
Fadiel Abu Omar Square,
El-Berhka, Benghazi, Libya,
P.O. Box 1320, Benghazi, Libya,
P.O. Box 3427, Tripoli, Libya,
(37 branches throughout Libya).
Zueitina Oil Company,
Zueitina Building "A", Sidi Issa, Dahra, P.O. Box 2134, Tripoli, Libya,
Mitchell Cotts Building, P.O. Box 2134, Tripoli, Libya,
Plant at Intisar Field A, Tripoli, Libya,
Gas Processing Plants, Tripoli, Libya.

3. Appendix B to part 550 is revised to read as follows:

Appendix B—Individuals Determined To Be Specially Designated Nationals of the Government of Libya

Abbott, John G.,
34 Grosvenor Street, London W1X 9FG, United Kingdom.
Abduljawad, Muhammed I.,
(a.k.a. ABDUL JAWAD, Mohammed),
Tripoli, Libya.
Aghil, Yousef I.,
Libya.
Bushwesha, Abdullah,
Libya.
Charalambides, Kypros,
Cyprus.
El Badri, Abdullah Salim,
Tripoli, Libya.
El Ghrabli, Abdudayem,
Libya.
El Huweij, Mohamed A.,
Tripoli, Libya.
Ferjani, A.S.A.,
Tripoli, Libya.
Ghadamsi, Bashir,
Italy.
Layas, Mohammed Hussein,
Tripoli, Libya.
Mana, Salem,
Libya,
Frankfurt, Germany.
Naas, Mahmoud,
Libya.
Paradissiotis, Christoforos Pavlou,
Larnaca, Cyprus,
34 Grosvenor Street, London W1X 9FG, United Kingdom.
Riecke, Dr. Hans Guenter,
Hamburg, Germany.
Saudi, Abdullah Ammar,
Manama, Bahrain.
Siala, Mohamed Taher Hammuda,
Tripoli, Libya.
Stavrou, Stavros,
Cyprus.
Ugueto, Luis David (MOROS),
Cyprus.
Yousef, Mohamed T.,
Libya.

Dated: June 25, 1992.

R. Richard Newcomb,

Director Office of Foreign Assets Control.

Approved: June 29, 1992.

Peter K. Nunez,

Assistant Secretary (Enforcement).

[FR Doc. 92–15663 Filed 6–30–92; 8:45 am]

BILLING CODE 4810-25-M

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Federal Register

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Wednesday, July 1, 1992

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FEDERAL REGISTER PAGES AND DATES, JULY

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202-523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-2470).

S. 756/P.L. 102-307

Copyright Amendments Act of 1992. (June 26, 1992; 106 Stat. 264; 9 pages) Price: $1.00

S. 2703/P.L. 102-308

To authorize the President to appoint General Thomas C. Richards to the Office of Administrator of the Federal Aviation Administration. (June 26, 1992; 106 Stat. 273; 2 pages) Price: $1.00

Last List June 30, 1992

CFR ISSUANCES 1992
January—April 1992 Editions and Projected July, 1992 Editions

This list sets out the CFR issuances for the January–April 1992 editions and projects the publication plans for the **July, 1992** quarter. A projected schedule that will include the **October, 1992** quarter will appear in the first **Federal Register** issue of October.

For pricing information on available 1991–1992 volumes consult the CFR checklist which appears every Monday in the Federal Register.

Pricing information is not available on projected issuances. The weekly CFR checklist and the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR titles and parts, revision date and price of each volume.

Normally, CFR volumes are revised according to the following schedule:

Titles 1–16—January 1
Titles 17–27—April 1
Titles 28–41—July 1
Titles 42–50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

*Indicates volume is still in production.

Titles revised as of January 1, 1992 editions:

Title	
CFR Index	1–199
	200–End
1–2	
3 (Compilation)	10 Parts:
	0–50
4	51–199
	200–399 (Cover only)
5 Parts:	400–499
1–699	500–End
700–1199	
1200–End	11
6 [Reserved]	12 Parts:
	1–199
7 Parts:	200–219
0–26	220–299
27–45	300–499
46–51	500–599
52	600–End
53–209	
210–299	13
300–399	
400–699	14 Parts:
700–899	1–59
900–999	60–139
1000–1059	140–199
1060–1119	200–1199
1120–1199	1200–End
1200–1499	
1500–1899	15 Parts:
1900–1939	0–299
1940–1949	300–799
1950–1999	800–End
2000–End	
	16 Parts:
8	0–149
	150–999
9 Parts:	1000–End

Titles revised as of April 1, 1992:

Title	
17 Parts:	23
1–199	
200–239	24 Parts:
240–End	0–199*
	200–499
18 Parts:	500–699
1–149	700–1699*
150–279	1700–End
280–399	
400–End	25
19 Parts:	26 Parts:
1–199*	1 (§§ 1.0–1–1.60)
200–End	1 (§§ 1.61–1.169)
	1 (§§ 1.170–1.300)
20 Parts:	1 (§§ 1.301–1.400)
1–399	1 (§§ 1.401–1.500)*
400–499	1 (§§ 1.501–1.640)
500–End	1 (§§ 1.641–1.850)
	1 (§§ 1.851–1.907)*
21 Parts:	1 (§§ 1.908–1.1000)*
1–99	1 (§§ 1.1001–1.1400)
100–169	1 (§ 1.1401–End)
170–199	2–29
200–299	30–39
300–499	40–49
500–599	50–299
600–799	300–499
800–1299	500–599 (Cover only)
1300–End	600–End
22 Parts:	27 Parts:
1–299	1–199
300–End	200–End

Projected July 1, 1992 editions:

Title	
28	400–End
	35
29 Parts:	
0–99	36 Parts:
100–499	1–199
500–899	200–End
900–1899	
1900–1910 (§§ 1901.1–1910.999)	37
1910 (§§ 1910.1000–End)	38 Parts:
1911–1925 (Cover only)	0–17
1926	18–End
1927–End	
	39
30 Parts:	
1–199	40 Parts:
200–699	1–51
700–End	52
	53–60
31 Parts:	61–80
0–199	81–85
200–End	86–99
	100–149
32 Parts:	150–189
1–189	190–259
190–399	260–299
400–629	300–399
630–699 (Cover only)	400–424
700–799	425–699
800–End	700–789
	790–End
33 Parts:	
1–124	41 Parts:
125–199	Chs. 1–100
200–End	Ch. 101
	Chs. 102–200 (Cover only)
34 Parts:	Ch. 201–End
1–299	
300–399	

TABLE OF EFFECTIVE DATES AND PERIODS—JULY 1992

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
July 1	July 16	July 31	August 17	August 31	September 29
July 2	July 17	August 3	August 17	August 31	September 30
July 6	July 21	August 5	August 20	September 4	October 5
July 7	July 22	August 6	August 21	September 8	October 5
July 8	July 23	August 7	August 24	September 8	October 6
July 9	July 24	August 10	August 24	September 8	October 7
July 10	July 27	August 10	August 24	September 8	October 8
July 13	July 28	August 12	August 27	September 11	October 13
July 14	July 29	August 13	August 28	September 14	October 13
July 15	July 30	August 14	August 31	September 14	October 13
July 16	July 31	August 17	August 31	September 14	October 14
July 17	August 3	August 17	August 31	September 15	October 15
July 20	August 4	August 19	September 3	September 18	October 19
July 21	August 5	August 20	September 4	September 21	October 19
July 22	August 6	August 21	September 8	September 21	October 20
July 23	August 7	August 24	September 8	September 21	October 21
July 24	August 10	August 24	September 8	September 22	October 22
July 27	August 11	August 26	September 10	September 25	October 26
July 28	August 12	August 27	September 11	September 28	October 26
July 29	August 13	August 28	September 14	September 28	October 27
July 30	August 14	August 31	September 14	September 28	October 28
July 31	August 17	August 31	September 14	September 29	October 29

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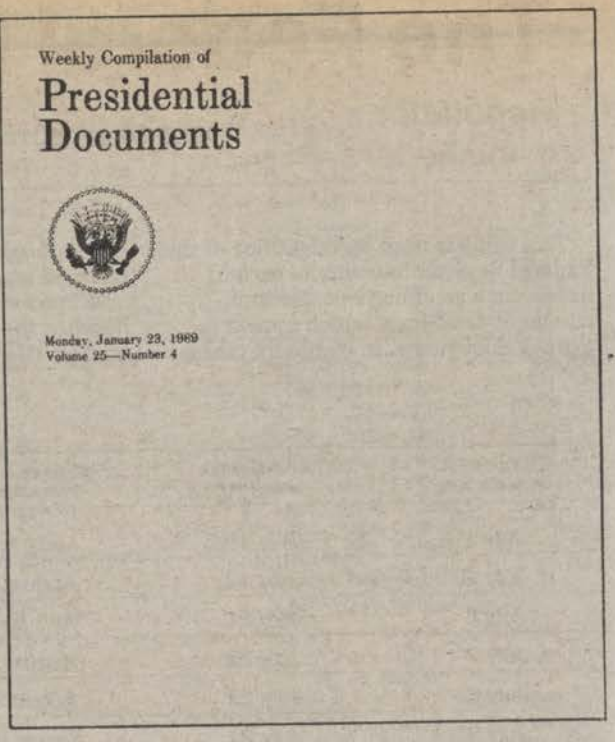

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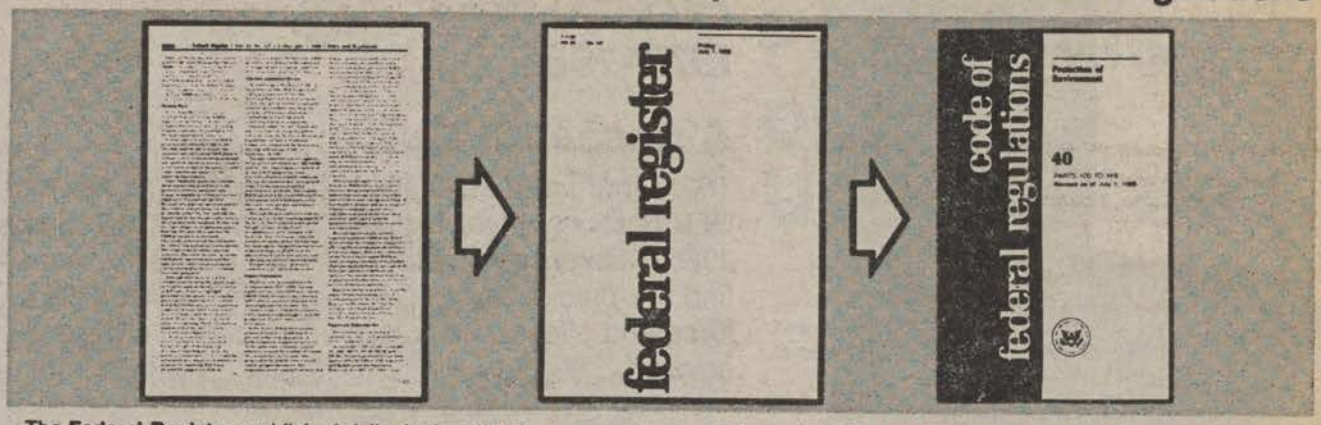

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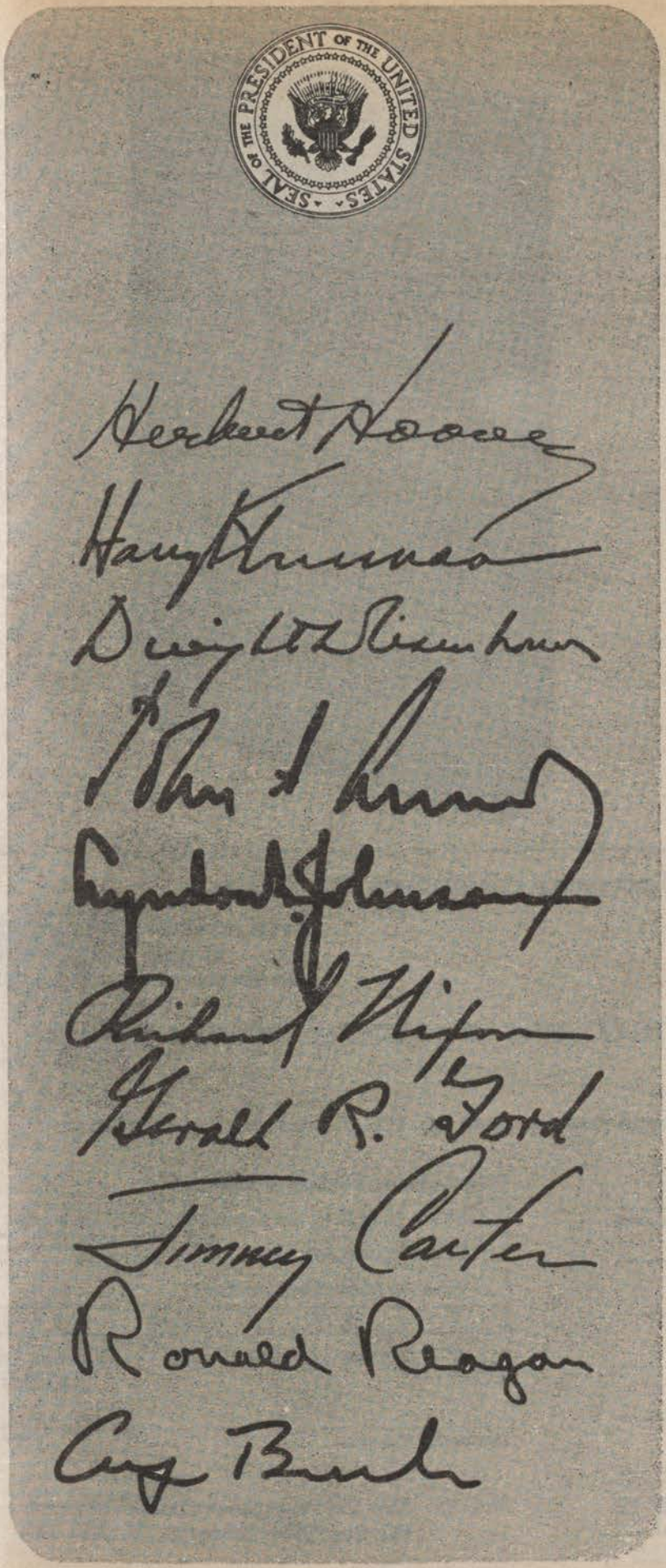

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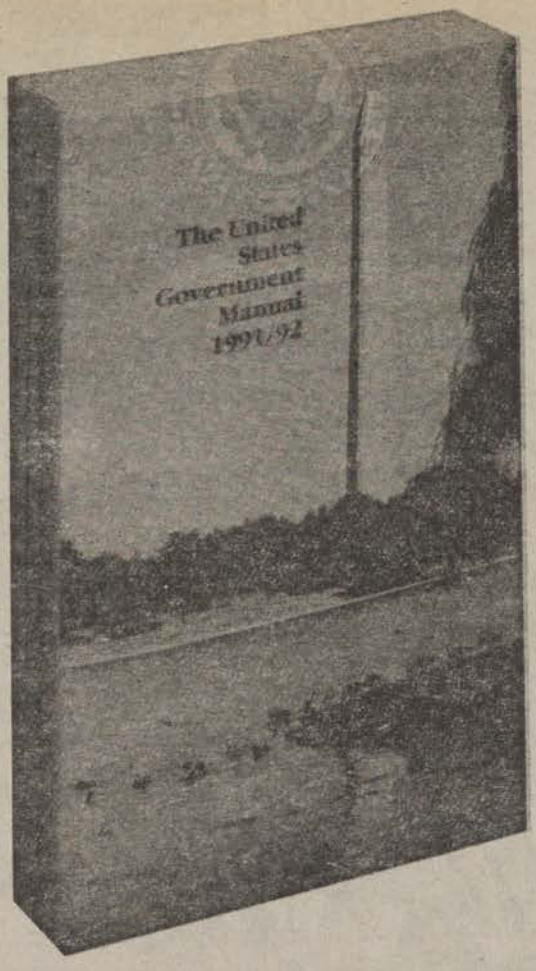

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